

1992

The Promark Group, Inc., a Colorado corporation formerly known as Component Sales, Inc., and Utah Component Sales, Inc., a Utah corporation v. Harris Corporation : Brief of Appellee

Utah Court of Appeals

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CKET NO. 920173CA IN THE UTAH COURT OF APPEALS

STATE OF UTAH

THE PROMARK GROUP, INC. :
a Colorado corporation formerly :
known as COMPONENT SALES, INC., :
and UTAH COMPONENT SALES, INC., :
a Utah corporation, : CASE NO. 920173-CA

Plaintiffs/Appellants, :

v. : PRIORITY NO. 16

HARRIS CORPORATION, :

Defendant/Appellee. :

BRIEF OF APPELLEE

APPEAL FROM SUMMARY JUDGMENT IN FAVOR OF DEFENDANT/
APPELLEE IN THE THIRD JUDICIAL DISTRICT COURT,
SALT LAKE COUNTY, JUDGE MICHAEL R. MURPHY PRESIDING

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FILED

SEP 4 1992

Mary T. Noonan
Clerk of the Court
Utah Court of Appeals

IN THE UTAH COURT OF APPEALS

STATE OF UTAH

THE PROMARK GROUP, INC.	:	
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TABLE OF CONTENTS

	<u>Page</u>
JURISDICTION OF THE COURT.....	1
STATEMENT OF ISSUES.....	1
DETERMINATIVE CONSTITUTIONAL PROVISIONS, STATUTES AND RULES.....	2
STATEMENT OF THE CASE.....	2
FACTS.....	4
SUMMARY OF ARGUMENT.....	9
ARGUMENT.....	11
I. PROMARK CANNOT CHALLENGE THE COURT'S SUMMARY JUDGMENT DISMISSING PLAINTIFF'S ORIGINAL COMPLAINT....	11
II. EVEN IF PROMARK COULD APPEAL THE TRIAL COURT'S DISMISSAL OF ITS ORIGINAL COMPLAINT, THE TRIAL COURT DID NOT ERR IN GRANTING THE FIRST MOTION FOR SUMMARY JUDGMENT.....	12
III. THE TRIAL COURT PROPERLY CONCLUDED THAT THE SALES REPRESENTATIVE AGREEMENT WAS VALIDLY TERMINATED AND PROPERLY HELD THAT APPELLANT HAD RECEIVED ALL TO WHICH IT COULD HAVE BEEN ENTITLED.....	14
A. The Agreement Was Terminated By Letter Dated August 22, 1989.....	14
B. Appellants' Only Possible Damages, If Any, Is The Loss Of 20% Of The Commissions For Sales Of Harris Products In Utah for 90 Days After August 22, 1989.....	16
C. ProMark Has Already Been Paid All to Which it Could Possibly Be Entitled.....	18
CONCLUSION.....	20

TABLE OF AUTHORITIES

CASES

<u>Amica Mut. Ins. Co. v. Schettler,</u> 768 P.2d 950 (Utah Ct. App. 1989)	17
<u>Conder v. A.L. Williams & Associates, Inc.,</u> 739 P.2d 634 (Utah App. 1987)	13
<u>Durham v. Margetts,</u> 571 P.2d 1332 (Utah 1977)	2
<u>Hal Taylor Associates v. Unionamerica, Inc.,</u> 657 P.2d 743 (Utah 1982).	12
<u>Hunt v. ESI Engineering, Inc.,</u> 808 P.2d 1137 (Utah App. 1991).	2
<u>Johnson v. Allen,</u> 58 P.2d 134 (Utah 1945)	13
<u>Morris v. Mountain States Telegraph & Telegraph Co.,</u> 658 P.2d 1199 (Utah 1983)	12
<u>State Bank of Lehi v. Woolsey,</u> 565 P.2d 413 (Utah 1977).	13
<u>Thornock v. Cook,</u> 604 P.2d 934 (Utah 1979).	2
<u>Transamerica v. Dixie Power,</u> 789 P.2d 24 (Utah 1990)	2

STATUTES

Utah Code Ann. § 78-2a-3(j)	1
---------------------------------------	---

RULES

Rule 4(a) Utah Rules of Appellate Procedure.	11
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JURISDICTION OF THE COURT

This Court has jurisdiction in this matter pursuant to Utah Code Ann. § 78-2a-3(j), as amended.

STATEMENT OF ISSUES

1. Whether Appellant can challenge the grant of summary judgment dismissing the original complaint more than two years after the time for appeal has expired.

2. If the first summary judgment can be challenged, whether the Trial Court properly granted summary judgment dismissing the original Complaint.

3. Whether summary judgment dismissing the second complaint was properly granted by the Trial Court.

4. Whether the Trial Court erred in deciding that the termination provisions of the Sales Representative Agreement at issue were unambiguous, and that the Agreement was validly terminated by a letter dated August 22, 1989.

5. Whether the Trial Court erred in finding that Harris Corporation would, at most, only owe commissions no longer than the period ending ninety (90) days after August 22, 1989, and that these commissions were ProMark's only potential damages.

6. Whether the Trial Court erred in finding that ProMark has already recovered all that it would be entitled to recover from Harris Corporation, even if Harris was found liable for commissions generated during the 90 day period following August 22, 1989.

Standard of Review

In reviewing a grant of summary judgment, the Appellate Court applies the same standard as the Trial Court. Durham v. Margetts, 571 P.2d 1332, 1334 (Utah 1977). Summary judgment is appropriate when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. Transamerica v. Dixie Power, 789 P.2d 24, 25 (Utah 1990). It is the appellants' burden to show that there are specific material facts which preclude a grant of summary judgment. Thornock v. Cook, 604 P.2d 934, 936 (Utah 1979).

All of the issues in this appeal are matters of law, including whether the Trial Court properly excluded parol evidence and whether it properly construed the unambiguous writings at issue. Matters of law are reviewed for correctness by this Court. Hunt v. ESI Engineering, Inc., 808 P.2d 1137 (Utah App. 1991).

DETERMINATIVE CONSTITUTIONAL PROVISIONS, STATUTES AND RULES

None.

STATEMENT OF THE CASE

Appellants original complaint filed in this action alleged only one cause of action for breach of what they termed an "exclusive" sales representative agreement. R.2-4. In that complaint, appellants sought damages for the loss of the value of the exclusive sales territory, allegedly caused by Harris Corporation entering into a sales agreement with another sales representative (Peggy Harris) which covered the same territory. Defendant/Appellee Harris Corporation filed a Motion to Dismiss

asserting that the contract was unambiguous, could be construed as a matter of law, was plainly not an exclusive contract and therefore, Harris Corporation had the right to engage other sales representatives to sell its products in the same territory. The Court elected to treat the motion to dismiss as one for summary judgment, and granted summary judgment for appellee Harris Corporation on the grounds asserted by Harris. The Order granting the motion was entered June 26, 1990. See Appendix "A," R. 108-109. The Summary Judgment dismissing the Complaint was entered on July 20, 1990. See Appendix "B," R. 120-122. Appellants never filed a notice of appeal appealing the grant of summary judgment which dismissed the only cause of action alleged in its original complaint in its entirety.

Appellants subsequently filed another complaint, alleging that they were entitled to commissions pursuant to the same Sales Representative Agreement the Court held to be non-exclusive, on the theory that the appellee never terminated the Agreement with respect to the Utah, Idaho and Montana region. The Court granted Harris Corporation's Motion for Summary Judgment on the grounds that 1) the Sales Representative Agreement was effectively terminated by letter dated August 22, 1989; 2) according to the unambiguous terms of the Sales Representative Agreement, the most that could be due even if Harris Corporation was found liable would be 20% of commissions generated in the relevant territory from March 1, 1989 through the 90-day period following August 22, 1989; and 3) ProMark had received all to which it would have been

entitled and, therefore, could not recover twice for the same damages. See Order granting Motion for Summary Judgment dated December 3, 1991 and Summary Judgment entered January 2, 1992 attached hereto as Appendices "C" and "D." R. 400-402; 409-411. ProMark now appeals the Trial Court's second summary judgment, which dismissed its cause of action for commissions, and attempts to resurrect its original complaint which alleged a cause of action for loss of alleged exclusive territorial rights.

FACTS

On or about August 1, 1986, appellee Harris Corporation, doing business through its unincorporated entity known as Harris Semiconductor, entered into a Sales Representative Agreement with appellant ProMark, which was then known as Component Sales, Inc., or "CSI." According to the agreement, ProMark was to sell Harris' products in a region which included all or part of Colorado, Wyoming, Montana, Idaho and Utah. A true and correct copy of the Sales Representative Agreement (hereinafter "Agreement") is attached hereto as Appendix "E"; R. 198-210.

Paragraph 6 of the Agreement, entitled "Term of Agreement," states in pertinent part as follows:

This Agreement will commence on the date first written above and will continue in effect until terminated by either party.

Either you or we may terminate this agreement for convenience at any time by written notice to the other.

We may terminate this agreement for convenience by giving not less than ninety (90) days prior written notice. On termination for convenience

you will continue to earn full commission on our sales and distributor resales made prior to the expiration of the notice period and eighty percent (80%) of your then applicable sales commission rate on sales (but not distributor resales) made after the notice period based on orders booked prior to expiration of the notice period and scheduled for shipment within 12 months.

See Appendix "E"; R. 202.

In December 1986, appellant ProMark retained Harris Marketing, Inc.¹ to sell Harris Corporation's products pursuant to a sub-representative agreement. See Sub-Representative Agreement, attached hereto as Appendix "F"; R. 216-226. See also Martin deposition p. 38, R. 270. This Sub-Contract with Peggy Harris violated the Sales Representative Agreement because appellee never consented to the Sub-Contract as required by the Agreement. See Agreement, ¶ 7(c); R. 203.

The entity who actually performed as Harris Corporation's sales representative in Utah pursuant to the 1986 Sub-Representative Agreement was an entity named Harris/CSI, Inc. Appellant ProMark owned 25% of Harris/CSI, appellant's president, Jim Martin, owned 40% and Peggy Harris owned 35%. Martin deposition, p. 35; R. 269. See letter dated November 7, 1986, attached hereto as Appendix "G"; R. 228. Peggy Harris was president of Harris/CSI and manager. Appendix "G"; R. 228.

¹Harris Marketing, Inc. is an entity that is unrelated to appellee Harris Corporation. Harris Marketing Inc.'s principal owner is Peggy Harris, who also has no relationship to appellee Harris Corporation.

On or about October 1, 1988, appellant ProMark entered into a second Sub-Representative Agreement with Harris Marketing, Inc., an entity wholly owned by Peggy Harris. Under this agreement, Harris Marketing, Inc. would sell appellee Harris Corporation's line of products in Utah, instead of Harris/CSI. See Sub-Representative Agreement, attached hereto as Appendix "H"; R. 230-234. This second Sub-Contract, like the 1986 Sub-Contract, violated the Sales Representative Agreement between appellant and appellee because appellee never consented to the Sub-Contract as required by the Agreement. See Agreement, ¶ 7(c); R. 203.

According to the unambiguous terms of the October 1, 1988 Sub-Contract between appellant ProMark and Peggy Harris, Peggy Harris was to receive 80% of the commissions generated by the sale of appellee's products, and appellant was to receive 20%. At all relevant times, appellant was only entitled to 20% of the commissions generated by Peggy Harris' sales of appellee's products. See Appendix "H"; Martin deposition, p. 71-72, R. 272-237; Hintze deposition, p. 16, R. 261.

On or about March 1, 1989, appellee Harris Corporation entered into a Sales Representative Agreement with Peggy Harris directly. As was the case since December 1986, Ms. Harris continued to be the only sales organization selling appellee's products in the relevant territories. See Sales Representative Agreement attached hereto as Appendix "I"; R. 236-249.

When appellee learned that ProMark (known at the time as CSI) and Peggy Harris' company, Harris Marketing, Inc., were not the same entity, it sent a letter dated August 22, 1989, to Jim

Martin, President of appellant, entitled "Notification of Termination of Sales Representative Agreement." A true and correct copy of the letter is attached hereto as Appendix "J"; R. 251.

The August 22, 1989 letter stated, inter alia, that "Harris Semiconductor considers the relationship between Harris Semiconductor and CSI [ProMark] terminated completely and irrevocably as of March 21, 1989 for all of the territory previously covered by CSI." See Appendix "J"; R. 251.

When Jim Martin received the August 22, 1989 letter, he knew appellee believed "that the relationship between Harris Semiconductor and CSI [ProMark] was terminated completely and irrevocably as of March 21, 1989." Mr. Martin also understood pursuant to the letter that appellee had taken the position that the agreement was completely terminated, and that no commissions would be payable to ProMark. Martin deposition, pp. 85-86, 88, R. 274-276.

At all relevant times, Peggy Harris and her organization made the only sales of appellee's products in Utah. ProMark's only role was an apparent entitlement to 20% of the commissions made by Peggy Harris for sales of appellee's products. Martin deposition, pp. 28-29, 38, 71-72, R. 264-265, 270, 272-273, Hintze deposition, p. 16, R. 261; Appendix "H".

Appellee sent Peggy Harris the commission checks for all sales of its products made in Utah after March 1, 1989. See Affidavit of Lisa Dutchik, attached hereto as Appendix "K"; R. 277-299.

In about October, 1989, appellant ProMark accused Peggy Harris of breaching her Sub-Contract with it by signing the March 1, 1989, Sales Representative Agreement directly with appellee. In approximately the spring of 1990, Harris Marketing, Inc. paid appellant ProMark \$15,000.00 in full and final settlement of all "compensation pursuant to the Sub-Representative Agreement", including lost commissions which appellants claimed resulted from Harris signing the March 1, 1989 contract with appellee. A true and correct copy of the Settlement Agreement is attached hereto as Appendix "L"; R. 394-399.

Appellee contributed \$7,500.00 to the \$15,000.00 settlement between appellant and its subcontractor, Harris Marketing. See Affidavit of George Gidzinski, attached hereto as Appendix "M"; R. 375-377.

Appellee has never entered into any agreement with appellant Utah Component Sales, Inc. ("Utah CSI"). Martin deposition, p. 39, R. 271. Although appellant ProMark apparently had an unauthorized Sub-Representative Agreement with Utah CSI prior to December, 1986, Utah CSI was replaced by Peggy Harris' organization because it chose to drop appellee's line of products so it could carry Motorola products, a product line which competed with appellee's products. Martin deposition pp. 27-30, 33-35, R. 263-269; Hintze deposition pp. 14-15, R. 259-260. Because of its decision to sell a competing product, Utah CSI, after December 1986, had nothing whatsoever to do with the sale of appellee's products. Martin deposition pp. 33-35, 38-39, R. 267-271.

SUMMARY OF ARGUMENT

POINT I

ProMark cannot challenge the Trial Court's dismissal of the only cause of action alleged in its original complaint because it never filed a notice of appeal, and the time for doing so has long since expired.

POINT II

Even if ProMark could appeal the Trial Court's dismissal of its original complaint, the Trial Court did not err in deciding that that Sales Representative Agreement at issue was clear and unambiguous, and that by its terms, it was not an exclusive contract. This Court should reject, as did the Court below, ProMark's attempt to introduce any parol evidence.

POINT III

The Trial Court correctly held that even if ProMark could show that the Sales Representative Agreement at issue was breached by appellee's failure to send it commissions for sales generated in the relevant territory after March 1, 1989, there is no dispute that appellant received all to which it could possibly have been entitled, even under the most generous scenario.

The Agreement was clearly and properly terminated by a letter dated August 22, 1989 sent to ProMark by Harris Corporation's lawyer, Howard Rothman. Therefore, under the unambiguous terms of the Agreement, ProMark was only entitled, if

at all, to commissions generated from March 1, 1989² through the 90-day period following the date of the termination letter.

ProMark was only entitled to 20% of the commissions generated during this period because it was contractually bound to pay its agent, Peggy Harris, 80% of all such commissions. ProMark had sub-contracted out all sales of appellee's products to Peggy Harris. Instead of sending 80% of the commissions to Peggy Harris, appellee sent 100% to Peggy Harris after March 1, 1989. Therefore, if ProMark was damaged at all, it was only to the extent of its 20% entitlement, which existed only until the agreement was terminated effective November 22, 1989. There is no dispute that the Sub-Contract between ProMark and Peggy Harris was in full force and effect throughout the entire 90-day termination period.

Because Peggy Harris subsequently paid ProMark an amount equal to ProMark's 20% entitlement in settlement of all compensation due under her Sub-Contract, ProMark has received all to which it is entitled and cannot recover again from appellee. ProMark completely ignores the fact that its contract with appellee was found to be a non-exclusive agreement and therefore the territory covered cannot be bought and sold as a "valuable asset". Given the Agreement's non-exclusive character, the only damages ProMark could even arguably recover is lost commissions.

²March 1, 1989 is the approximate date appellee stopped sending commission checks to appellant, and began sending them directly to Peggy Harris, pursuant to the new agreement it entered into with Ms. Harris.

ProMark also completely ignores the fact that its cause of action for loss of the alleged value of its alleged "asset" asserted in its original complaint was dismissed by the Trial Court because the contract is unambiguously non-exclusive and therefore no "valuable" exclusive territorial asset ever existed.

POINT IV

Appellant Utah CSI has no claim for commissions against appellee because there is no dispute that it never entered into any sort of contract with appellee, and after December, 1986, it never sold any of appellee's products, because it chose to sell a competitor's product instead.

ARGUMENT

I. PROMARK CANNOT CHALLENGE THE COURT'S SUMMARY JUDGMENT DISMISSING PLAINTIFF'S ORIGINAL COMPLAINT.

ProMark cannot challenge the Trial Court's summary judgment dismissing its original complaint because it never filed a notice of appeal, and the time for appeal has long since expired.

A notice of appeal must be filed within thirty (30) days after the date of judgment or the right to appeal is lost. Rule 4(a), Utah Rules of Appellate Procedure. The judgment dismissing the cause of action alleged in ProMark's original Complaint was entered on July 20, 1990.

Because ProMark has never filed a Notice of Appeal challenging the Court's summary judgment dismissing its entire original complaint, and because the time for filing the notice expired over two years ago, appellant's Point I in its brief should not be considered.

II. EVEN IF PROMARK COULD APPEAL THE TRIAL COURT'S DISMISSAL OF ITS ORIGINAL COMPLAINT, THE TRIAL COURT DID NOT ERR IN GRANTING THE FIRST MOTION FOR SUMMARY JUDGMENT.

The Trial Court properly held that the Agreement at issue is unambiguous and that extrinsic evidence can not be considered in its interpretation. The Court further properly held that the Agreement, by its plain terms, was not an exclusive contract and therefore Harris Corporation could engage other sales representatives to sell its products in the same territory as it saw fit. The Court correctly excluded parol evidence and correctly interpreted the clear and unambiguous terms of the contract.

The law is well settled that the meaning of a contract is a question of law to be resolved by the Court and that

When the existence of a contract and the identity of its parties are not in issue, and when the contract provisions are clear and complete, the meaning of the contract can be appropriately resolved by the Court on summary judgment.

Morris v. Mountain States Tel. & Tel. Co., 658 P.2d 1199, 1201 (Utah 1983). Parol evidence as to what the parties "really" meant is inadmissible. Id.

The Sales Agreement between Harris Corporation and appellants contains no statement that it is an exclusive agreement. In Hal Taylor Associates v. Unionamerica, Inc., the Utah Supreme Court stated:

It is a long-standing rule in Utah that persons dealing at arm's length are entitled to contract on their own terms without intervention of the courts to relieve either party from the effects of a bad bargain. This

Court will not rewrite a contract to supply terms which the parties omitted.

657 P.2d 743, 749 (Utah 1982). Instead, appellants attempted to create additional rights they claim they had, despite an absence of supportive language in the Sales Agreement. This appellants may not do. In Johnson v. Allen, 158 P.2d 134 (Utah 1945, cited with approval in Conder v. A.L. Williams & Associates, Inc., 739 P.2d 634 (Utah App. 1987)), the Utah Supreme Court explained:

[W]hen parties undertake to reduce their oral negotiations to writing both must understand that the writing is to express the contract. If one in defense to an action on the contract were to be permitted to say that the other falsely represented that something had been included or excluded therefrom, the writing would be of little value. Every case could present a jury question as to whether the writing expressed the agreement.

158 P.2d at 137-38.

ProMark attempts to prove its assertion that the agreement was exclusive through parol evidence which consists of unsupported, conclusory statements regarding the parties' dealings. As the Trial Court properly held, this is impermissible. The Sales Agreement is a complete, integrated and unambiguous agreement. (See Integration clause - paragraph 7.G.) Accordingly, parol evidence may not be introduced to add to the terms of the Agreement. See State Bank of Lehi v. Woolsey, 565 P.2d 413, 418 (Utah 1977).

Should this Court determine that ProMark may appeal the summary judgment dismissing its original complaint over two years ago, it can determine, as did the Court below, from the plain,

unambiguous terms of the Agreement at issue that it is non-exclusive. Like the Court below, this Court should reject any proffer of extrinsic evidence.³ See Order dated June 26, 1990 (the Agreement is "unambiguous. . . in that it does not provide for exclusivity for plaintiff".) R. 108-109.

III. THE TRIAL COURT PROPERLY CONCLUDED THAT THE SALES REPRESENTATIVE AGREEMENT WAS VALIDLY TERMINATED AND PROPERLY HELD THAT APPELLANT HAD RECEIVED ALL TO WHICH IT COULD HAVE BEEN ENTITLED.

A. The Agreement Was Terminated By Letter Dated August 22, 1989.⁴

As properly held by the Trial Court, the August 22, 1989, letter sent by Howard Rothman to Jim Martin clearly terminated the Agreement. R. 400-402. Therefore, because the Agreement provides for commissions earned 90 days past the termination letter, the most appellants would have been entitled to is commissions earned up to November 22, 1989.

The Agreement clearly and unambiguously provides that it may be terminated for any reason, at any time, at the convenience

³Pro-Mark's assertion that the Agreement is a contract of adhesion is without merit. The Agreement was entered into at arms-length between two sophisticated, experienced, business entities. The case law cited by Pro-Mark concerning construction of adhesion contracts is therefore inapposite.

The cases cited by appellants for the proposition that parol evidence is admissible to ascertain whether a contract is "exclusive" are also inapposite because they involve contracts which, as appellants point out, were "unclear and ambiguous." Here, as found by the Trial Court, the Sales Representative Agreement was unambiguous and integrated.

⁴This section responds to appellants' assertion, made throughout their brief, that the August 22, 1989 letter did not effectively terminate the contract, including appellants' Point IV.

of either party simply by giving written notice. It does not specify any particular format for the notice, but requires only that the notice of termination be in writing. R. 202.

As the Court can determine, the August 22, 1989, termination letter is entitled "Notification of Termination of Sales Representative Agreement". The letter states inter alia that "Harris Semiconductor considers the relationship between Harris Semiconductor and [ProMark] terminated completely and irrevocably as of March 21, 1989 for all of the territory previously covered by [ProMark]." R. 251. Further, ProMark's president, Jim Martin, knew that Harris Corporation believed that the relationship was terminated, and he understood pursuant to the letter that the Agreement was completely terminated and that no commissions would be payable to ProMark. Martin deposition, pp. 85-86, 88, R. 274-276.

Mr. Rothman had no duty to state the legal basis for the termination letter, neither was he merely expressing an "erroneous conclusion" that the Agreement was terminated, nor is the letter an "unfounded, illogical, and unreasonable self-serving legal opinion."⁵ The letter is a clear statement of Harris

⁵Appellants seems to argue in Point IV of its brief that Harris Corporation's misunderstanding of the relationship between Peggy Harris and ProMark was not a legal basis for termination of the contract. However, no "legal basis" is necessary because the contract could be terminated at-will. Further, whether or not Harris actually suffered from this misunderstanding is irrelevant to the Trial Court's grant of summary judgment, and therefore is not an issue of material fact.

Corporation's intent that the relationship be severed and that the Agreement be "completely and irrevocably" terminated. The letter clearly complies with the Agreement's termination provision.

Since appellee evidenced its intent to terminate the Agreement on August 22, 1989, and because there is no dispute that ProMark understood that the Agreement was terminated, the most ProMark can even arguably recover pursuant to the terms of the Agreement are commissions up to November 22, 1989, 90 days beyond the date of the termination letter.

B. Appellants' Only Possible Damages, If Any, Is The Loss Of 20% Of The Commissions For Sales Of Harris Products In Utah for 90 Days After August 22, 1989.

Even if appellants could succeed in proving that they were entitled to commissions until November 22, 1989, the Trial Court properly held that ProMark already has received all to which it could have been entitled. There is no dispute that ProMark was only entitled to 20% of the commissions attributable to appellee's products sold in Utah because Peggy Harris had a contractual entitlement to 80%. R. 230-234. There is also no dispute that the Sub-Representative Agreement between ProMark and Ms. Harris was in effect until Peggy Harris and ProMark settled their disputes on November 30, 1989.⁶ See Letters attached hereto as

⁶Appellants make much of the fact that they were allegedly "entitled to rescind" the Sub-Contract with Peggy Harris at any time after March 1, 1989, and if they had rescinded, they "would have been relieved from any further obligations to pay commissions under the contract." (emphasis added). However, as evidenced by the unrebutted letters attached hereto as Appendices "N" and "O", the undisputed fact remains that although Peggy Harris wanted to terminate the Sub-Contract effective October 19, 1989, ProMark expressly refused, and told Ms. Harris that the earliest the (Footnote continued on next page.)

Appendix "N"; R. 389; and Appendix "O"; R. 391; and the Settlement Agreement attached hereto as Appendix "L"; R. 394-397. Therefore, the Court below properly held that the only damage ProMark could have suffered by Harris Corporation sending 100% of the commissions to Peggy Harris was the loss of its 20% entitlement.

As established by the unrebutted affidavit of Lisa Dutchik, a financial analyst for Harris Corporation, the total commissions paid to Peggy Harris from March 1, 1989, through November, 1989, were \$66,177.00. The commissions on sales booked from August 22, 1989, until November 22, 1989, and shipped within 12 months thereafter totalled \$4,640.00. R. 277-299. Although these figures include commissions on product lines and for territory not covered by appellee's 1986 Agreement with ProMark, and is far more than ProMark would be entitled to pursuant to the 1986 Agreement, appellee assumed for purposes of its summary judgment motion that ProMark could show that it was entitled to 20% of all that Peggy Harris got. Even in that event, the most ProMark could have recovered is \$14,163.00.⁷

(Footnote continued from previous page.)

Sub-Contract could be terminated according to its terms was January 1, 1991, unless it was terminated at some earlier date by a settlement agreement. Appendices "N" and "O", R. 389,391. Therefore, there is no dispute that the Sub-Representative Agreement between appellant and Peggy Harris was not rescinded until the Settlement Agreement was signed on November 30, 1989.

⁷All the commission figures specified in this paragraph were unrebutted by ProMark. Absolutely no contradictory evidence was submitted by ProMark, so no issue of fact was ever created concerning these amounts. Therefore, contrary to appellants' assertion in its brief, these dollar amounts are matters of undisputed fact and were properly relied upon by the court below in granting summary judgment. See Amica Mut. Ins. Co. v. Schettler, 768 P.2d 950 (Utah Ct. App. 1989).

C. ProMark Has Already Been Paid All to Which it Could Possibly Be Entitled.

Based upon the undisputed, un rebutted evidence before it, the Trial Court properly held that ProMark already recovered all sums which it could possibly recover. Because it did not have exclusive rights to the relevant territory for sales of appellee's products, appellee's product line was not a "valuable asset" which it lost when Peggy Harris signed her agreement directly with appellee. ProMark did not lose exclusive territorial rights because such never existed.

ProMark continually ignores the law of the case that the Agreement was non-exclusive, and therefore was not a "valuable asset" distinct from whatever right to commissions it might have. ProMark's bald assertion in its brief that the settlement agreement "was not based upon the amount of lost commissions but upon the value of the asset which [Peggy Harris] converted from appellants" is not only completely unsupported by the record, but is contrary to the unambiguous terms of the Settlement Agreement. In granting summary judgment, the Trial Court properly held that:

The Court could not normally assume that the dollar amount of the settlement between [ProMark] and Harris Marketing was premised on the commission split formula in the agreement between [ProMark] and Harris Marketing. In this case, however, the Settlement Agreement and Release expressly premised the dollar settlement on compensation due under that "sub-representative agreement". As a result of that settlement, [ProMark] has recovered all that it would be entitled to recover from appellee through November 22, 1989.

Order granting Motion for Summary Judgment dated December 3, 1991,
R. 400-402.

Contrary to appellants' assertion, the Trial Court did not make an improper "fact assumption" about the basis for the Settlement Agreement. That agreement made clear by its unambiguous language that the settlement was for compensation pursuant to the Sub-Representative Agreement between Peggy Harris and appellant ProMark. Compensation "pursuant to the Sub-Representative Agreement" was clearly and unambiguously 20% of commissions generated by Peggy Harris' sales of appellee's products.⁸

The only damage appellants could have suffered as a result of Peggy Harris signing directly with appellee and keeping 100% of the commission checks thereafter, is 20% of the commissions. Because ProMark did not "own" the territory, there simply are no other damages which resulted from Peggy Harris' alleged breach of her Agreement with ProMark. Therefore, because Peggy Harris paid ProMark \$15,000.00 in settling her dispute, ProMark got more than that to which they were entitled.⁹ Because

⁸Appellant once again invites this Court to remand the case so the Trial Court can improperly consider parol evidence as to the "real" intent of the parties to the Settlement Agreement. As is the case in interpreting the Sales Representative Agreement, parol evidence is also inadmissible in interpreting the Settlement Agreement.

⁹The Trial Court did not conclude, as asserted by appellant, that ProMark and Peggy Harris intended to release Harris Corporation when they entered into the Settlement Agreement. As the Court stated in its Order, it granted summary judgment because ProMark "recovered all that it would be entitled to recover from defendant". R. 400-402.

ProMark cannot recover twice, the Trial Court properly granted summary judgment.

POINT IV

APPELLANT UTAH CSI IS NOT ENTITLED TO ANY COMMISSIONS

The undisputed facts establish that there has never been any agreement between the entity Utah CSI and appellee. Utah CSI was apparently an entity created by appellant ProMark to handle sales of various product lines in Utah. At one time, prior to the involvement of Peggy Harris in December, 1986, Utah CSI apparently sold appellee's line of products pursuant to a Sub-Representative Agreement with appellant ProMark. However, there is no dispute that in December, 1986, Utah CSI chose not to carry appellee's product line because it decided that it would rather sell Motorola products, a line which competed with appellee's products. There also is no dispute that Peggy Harris was signed up in December, 1986 to replace Utah CSI, and that after December, 1986, Utah CSI had nothing whatsoever to do with the sales of appellee's products. Martin Deposition pp. 38-39, R. 270-271. Because Utah CSI was no longer involved in selling appellee's products after December, 1986, Utah CSI's simply has no claim for commissions allegedly due after March, 1989.

CONCLUSION

In deciding this case, the Trial Court properly read and applied the unambiguous terms of the relevant documents. From these documents, and from the unrebutted, undisputed commission amounts submitted by appellee, the Court properly determined, as a matter of law: (1) that the Sales Representative Agreement was


non-exclusive; (2) that the Agreement was effectively terminated at the latest by the August 22, 1989 letter; (3) that ProMark was only entitled to 20% of the total commissions sent to Peggy Harris from March 1, 1989 through November 22, 1989; (4) that Peggy Harris paid ProMark the 20% it was entitled to when she settled her dispute for a sum "representing compensation due pursuant to the Sub-Representative Agreement;" and (5) that because Peggy Harris paid ProMark the 20% to which it was entitled, Harris Corporation could not be required to pay it that amount again.

These conclusions were made as a matter of law because the documents at issue were unambiguous and integrated. ProMark impermissibly attempts to create "issues of fact" with unsupported, conclusory, and self-serving proffers of what the parties "really" intended, despite the unambiguous language of the writings at issue. All of the parol evidence was properly excluded by the Trial Court and should likewise not be considered by this Court.

Because the writings at issue are clear and must be construed as a matter of law, and because there are no genuine issues of material fact, the Trial Court was correct in granting summary judgment in appellee's favor, and therefore the relief appellants seek on appeal should be denied and the Trial Court's grant of summary judgment should be affirmed.

DATED this 4th day of September, 1992.

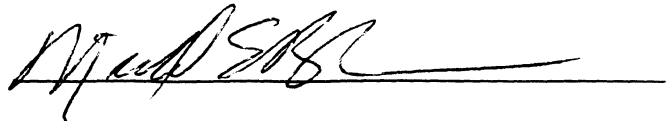
RAY, QUINNEY & NEBEKER


Michael E. Blue
Attorneys for Appellee
-21-

CERTIFICATE OF MAILING

I hereby certify that on the 4th day of September, 1992,
four true and correct copies of this BRIEF OF APPELLEE were
mailed, postage prepaid, to:

Raymond A. Hintze
HINTZE, BROWN & FAUST
6925 Union Park Center #480
Midvale, Utah 84047

A handwritten signature in dark ink, appearing to read "Raymond A. Hintze", is written over a horizontal line.

MEB+1167

Tab A

JUN 28 1990

& NEBEKER

FILED DISTRICT COURT
Third Judicial District

JUN 26 1990

SALT LAKE COUNTY

By SJ Deputy Clerk

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT

IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

THE PROMARK GROUP, INC.,	:	ORDER
a Colorado corporation	:	
formerly known as COMPONENT	:	CIVIL NO. 900901999
SALES, INC., and UTAH	:	
COMPONENT SALES, INC., a	:	
Utah corporation,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
HARRIS CORPORATION,	:	
	:	
Defendant.	:	
	:	

This matter is before the Court on defendant's Motion to Dismiss. The matter was scheduled for oral argument on June 18, 1990 but counsel for plaintiff did not appear. Counsel for defendant agreed that the matter could be submitted on the briefs. Because defendant has referred the court to matters outside the pleadings, i.e., a March 1, 1989 contract, the motion is treated as one for summary judgment.

The two contracts in issue are unambiguous in that they do not provide for exclusivity for either the plaintiff or Harris Marketing, Inc. As a consequence, there is no genuine issue

THOMARK V. HARRIS CORP.

PAGE TWO

ORDER

of material fact and defendant is entitled to judgment as a matter of law. Defendant's motion is therefore granted.

Defendant is to submit a form of order in accordance with Rule 4-504, Code of Judicial Administration.

Dated this 26th day of June, 1990.

191
MICHAEL R. MURPHY
DISTRICT COURT JUDGE

MAILING CERTIFICATE

I hereby certify that I mailed a true and correct copy of the foregoing Order, to the following, this 26th day of June, 1990:

Raymond A. Hintze
Attorney for Plaintiff
3450 Highland Drive, Suite 301
Salt Lake City, Utah 84106

Kent H. Murdock
Enid Greene
Attorneys for Defendant
79 S. Main Street
P.O. Box 45385
Salt Lake City, Utah 84145-0385

/s/

Tab B

KENT H. MURDOCK (A2350)
ENID GREENE (A4041) of
RAY, QUINNEY & NEBEKER
79 South Main Street
P. O. Box 45385
Salt Lake City, Utah 84145-0385
Telephone: (801) 532-1500

Attorneys for Defendant

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY

STATE OF UTAH

-----oo0oo-----

THE PROMARK GROUP, INC.,	:	
a Colorado corporation formerly	:	SUMMARY JUDGMENT
known as COMPONENT SALES, INC.,	:	
and UTAH COMPONENT SALES, INC.,	:	Civil No. 900901999CV
a Utah corporation,	:	
	:	Judge Michael R. Murphy
Plaintiffs,	:	
	:	
v.	:	
	:	
HARRIS CORPORATION,	:	
	:	
Defendant.	:	

-----oo0oo-----

The Court having entered its ORDER of June 26, 1990,
granting defendant's Motion for Summary Judgment for the reasons
stated therein, and the Court having directed the entry of a final
order and there being no just reason for delay,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the FIRST
CAUSE OF ACTION of the Amended Complaint, which incorporates the

original Complaint in its entirety, is dismissed on the merits with prejudice.

DATED this 20 day of July, 1990.

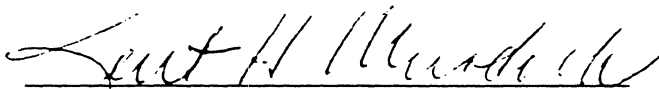
BY THE COURT

/s/

MICHAEL R. MURPHY
DISTRICT COURT JUDGE

Approved as to form:


Raymond A. Hintze
Attorney for Plaintiff




Kent H. Murdock
Enid Greene
Attorneys for Defendant Harris Corporation

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of July, 1990, a true and correct copy of the foregoing SUMMARY JUDGMENT was mailed, postage prepaid, to the following:

Raymond A. Hintze
HINTZE, BROWN, FAUST, BLAKESLEY
& MCPHIE
3450 Highland Drive #301
Salt Lake City, Utah 84106

A handwritten signature in cursive script, appearing to read "Raymond A. Hintze", written over a horizontal line.

EG+228

Tab C

DEC 0 6 1991

FILED DISTRICT COURT
Third Judicial District

& NEBEKER

DEC 3 1991

SALT LAKE COUNTY

By S Deputy Clerk

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

THE PROMARK GROUP, INC., a	:	ORDER
Colorado corporation formerly	:	
known as COMPONENT SALES, INC.,	:	CASE NO. 900901999
and UTAH COMPONENT SALES, INC.,	:	
a Utah corporation,	:	
Plaintiff,	:	
vs.	:	
HARRIS CORPORATION,	:	
Defendant.	:	

Defendant's Motion for Summary Judgment is granted. Merely because the issues are presented in the context of Rule 56, Utah Rules of Civil Procedure, does not preclude the Court from applying a common sense approach. Common sense indicates that no reasonable person could interpret the August 22, 1989 letter as anything less than at least a ninety day notification of termination as to all territories. As a consequence, defendant would owe commissions no longer than the period ending ninety days after August 22, 1989.

The Court could not normally assume that the dollar amount of settlement between CSI and Harris Marketing was premised on the commission split formula in the agreement between CSI and

PROMARK V. HARRIS CORP.

PAGE TWO

ORDER

Harris Marketing. In this case, however, the Settlement Agreement and Release expressly premised the dollar settlement on compensation due under that "sub-representative agreement." As a result of that settlement, CSI has recovered all that it would be entitled to recover from defendant through November 22, 1989.

For the foregoing reasons, defendant's Motion for Summary Judgment is granted. Defendant is to submit a form of Judgment pursuant to Rule 4-504, Code of Judicial Administration.

Dated this 3rd day of December, 1991.

/s/
MICHAEL R. MURPHY
DISTRICT COURT JUDGE

MAILING CERTIFICATE

I hereby certify that I mailed a true and correct copy of the foregoing Order, to the following, this 31st day of December, 1991:

Raymond A. Hintze
Attorney for Plaintiff
6925 Union Park Center, Suite 480
Midvale, Utah 84047

Michael E. Blue
Attorney for Defendant
79 S. Main
P.O. Box 45385
Salt Lake City, Utah 84145-0385

/s/

Tab D

JAN 06 1992

& NEBEKER

FILED DISTRICT COURT
Third Judicial District

JAN 2 1992

SALT LAKE COUNTY

By JS Deputy Clerk

MICHAEL E. BLUE (A5258) of
RAY, QUINNEY & NEBEKER
Attorneys for Defendant
79 South Main Street
P. O. Box 45385
Salt Lake City, Utah 84145-0385
Telephone: (801) 532-1500

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY

STATE OF UTAH

-----oo0oo-----

THE PROMARK GROUP, INC.	:	
a Colorado corporation formerly	:	
known as COMPONENT SALES, INC.,	:	SUMMARY JUDGMENT
and UTAH COMPONENT SALES, INC.,	:	
a Utah corporation,	:	
	:	Case No. 900901999CV
Plaintiffs,	:	
	:	Honorable Michael R. Murphy
v.	:	
HARRIS CORPORATION,	:	
	:	
Defendant.	:	

-----oo0oo-----

The Court having granted defendant's Motion for Summary Judgment by Order dated December 3, 1991, and having expressly directed the entry of this judgment,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Amended Complaint and all claims for relief and causes of action contained therein are dismissed on the merits with prejudice, and

that plaintiff take nothing thereby. Defendant is awarded costs in the amount of \$_____.

DATED this 2nd day of January, 1992.

BY THE COURT:

JS/
Honorable Michael R. Murphy
District Court Judge

ATTORNEY OF RECORD FOR PLAINTIFFS:

Raymond A. Hintze
HINTZE, BROWN & FAUST
6925 Union Park Center #480
Midvale, UT 84047

CERTIFICATE OF MAILING

I hereby certify that on the 27th day of December, 1991, a true and correct copy of this Summary Judgment was mailed, postage prepaid to:

Raymond A. Hintze
HINTZE, BROWN & FAUST
6925 Union Park Center #480
Midvale, Utah 84047

Arlene H. Brannan

MEB+843

Tab E

SALES REPRESENTATIVE AGREEMENT

THIS AGREEMENT is made this 1st day of August, 1986, by and between HARRIS CORPORATION, acting by and through its Semiconductor Sector, P.O. Box 883, Melbourne, Florida 32901 and Component Sales, Inc., 7108 S. Alton Way, Building "E", Englewood, CO 80112.

The parties agree as follows:

As used in this Agreement, the words "we", "us", and "our" refer to Harris, and the words "you" and "your" refer to the Representative.

1. APPOINTMENT. You accept appointment as a sales representative of our Products in the Territory, under the terms and conditions of this Agreement. The current Products are referenced in Attachment 1, and the Territory is indicated in Attachment 2A.
2. ACTIVITIES. In general, you will exercise your best efforts to promote the sales of our Products through contacting, soliciting purchases by, and servicing of Customers (actual and prospective) throughout the Territory. In particular, you will
 - o Maintain an office and sales organization in the Territory equipped and competent to perform all activities in connection with promoting the sale of our Products;

Assist us in establishing mutually acceptable realistic annual sales objective for the Territory, against which your performance will be measured;
 - o Demonstrate our Products and, when requested, assist us at selected trade shows in the Territory;
 - o Identify any new Product requirements and new Customers, and submit to us a completed Marketing Inquiry Form (Attachment 3) pertaining to Customer inquiries for new Products;
 - o Assist us in training and support of our authorized Distributors, and assist the Distributors in promoting the sale of our Products;
 - o Periodically submit to us your forecasts and reports of your activities in the Territory ~~in connection with~~ performance under the agreement, in a form designated by us;

- o Not represent an actual or prospective competing product line of any other source, as determined in our reasonable judgment, without our written consent;
- o Assist us in handling Customer claims and inquires;
- o Assist us in credit check of and collections from Customers, when we request same;
- o Maintain and furnish to us an up-to-date mailing list of customers for mailing of product literature and the like;
- o Treat the substantive provisions of this Agreement and other business information disclosed to you by us as confidential information; and
- o Perform other reasonable activities within the general scope of this Agreement, when requested by us.

3. QUOTATIONS AND ORDERS. You will make quotations for Products strictly on prices and terms authorized by us. Our standard terms and conditions of sale in effect at the time of this Agreement are contained in Attachment 4. You will submit or request the Customer to submit all Orders for Products to us at our home office in Melbourne, Florida.

An Order will be considered "booked" only when and to the extent we issue a written Order Acknowledgment to the Customer from our Melbourne office. We reserve the right to reject Orders, without incurring any liability to you.

You have no authority to accept Orders or to modify them in any way, or to make any commitments purporting to bind us.

4. COMMISSIONS. Your remuneration under this Agreement is limited to Commissions. In general, you will earn a Commission on (i) our Product sales into the Territory to Customers (other than Distributors) against Orders booked during the term of this Agreement, and (ii) Product resales during the term of this Agreement by our authorized Distributor locations in the Territory. In addition, you will earn a commission equal to twenty (20%) of your then applicable rate with respect to sales in the Territory during the Term on Orders booked prior to the Term of this Agreement. Except for research and development orders for custom and semicustom products, the Commission will be earned at the time of the sale or resale, that is, when the delivery is billed by us or the Distributor as the case may be.

The Commission rate will be a percentage of the net amount billed F.O.B. origin, "net" meaning exclusive of federal, state and local taxes, assessments and tariffs of any kind whatsoever, transportation charges, insurance, and any incidental fees or charges, and reflecting applicable discounts, credits, claims and price allowances.

The Commission rate is a variable percentage as set forth in Attachment 5 based on a comparison of sales against an annual quota set by us and acknowledged by you. Each sales period your actual cumulative sales will be compared with the corresponding cumulative quota to the nearest whole percent and your commission for the cumulative period will be adjusted and paid accordingly.

Sales involving more than one territory will ordinarily result in split Commissions among the respective sales representatives on the following basis: 50% to design-in, and 50% to purchasing territories. Distributor resales, however, will be paid 100% ship-to-location by Zip code, except as otherwise noted in this Agreement or exhibit thereto. In no event will the sum of the split Commissions exceed the applicable Commission for a corresponding sale involving only one territory.

We recognize that controversies may from time to time arise between you and other representatives with regard to Commissions due for sales to Distributors or Customers, with such sales being made in one Representative's Territory to Customers doing business or accepting delivery in another Representative's Territory. You and we specifically understand and agree that we have the right to, and may, establish reasonable rules and regulations of general application subject to change from time to time governing the sales of Products, and you agree to abide by such rules and regulations. Any disputes with respect to allocations of Commission shall be submitted to us for reasonable adjustment and determination and such determination shall be binding and final upon you and all right to further adjudication on such matters is hereby waived. In addition, we reserve the right to allocate the entire Commission to the purchasing Territory for an order of \$1,000 or less.

We may at any time designate a Customer as a "House Account", by giving you ninety (90) days written notice. You will continue to earn full Commissions on our sales to the House Account and on Distributor resales to that account during the notice period and on our sales to the House Account (but not on Distributor resales to that Account) after expiration of the notice period based on the scheduled orders (scheduled delivery not exceeding 12 months) on backlog at the expiration of the notice period.

No Commission will be earned at any time on (i) Products we export from the U.S.; (ii) license or know-how agreements; (iii) non-recurring engineering charges on custom or special Products unless otherwise agreed in writing; (iv) qualification charges on Hi-Rel or other Products; (v) design and/or development contracts except as otherwise agreed; (vi) Products shipped at no charge or for which the Customer has been given credit, whether for replacements under warranty, lost shipments or other Customer claims.

We reserve the right at any time to reduce your Commission rate on Distributor resales involving a volume purchase agreement between

us and our Customer where the purchase agreement prices to the Customer are discounted to the Distributor.

We will be entitled to set off against your account any Commission you have earned on the sale or resale of a Product subsequently returned for credit or reimbursement, or for which the Customer fails to pay after normal collection procedures. In any case, we reserve the right to withhold payment of your Commission until the Customer pays us.

We reserve the right at any time with ninety (90) days written notice to you to change the Commission rate on specific Products or involving specific Customers, or both, in what we deem to be unusual circumstances. If we make any such change it will not apply to sales against Orders booked prior to the expiration date of the notice period, but only to Orders booked thereafter.

We may at any time increase or decrease the geographic Territory by giving you ninety (90) days written notice. With respect to sales into the increased portion of the Territory, you will earn a commission equal to twenty (20%) of your then applicable rate on sales (but not distributor resales) after the notice period based on Orders booked prior to expiration of the notice period. With respect to sales into the decreased portion of the Territory, you will earn a full commission on sales and Distributor resales on sales made during the notice period and eighty (80%) of your then applicable rate on sales (but not on Distributor resales) after the notice period of Orders booked prior to expiration of the notice period.

For Custom and Semicustom device contracts pertaining to Research and Development (including studies) or portions of such negotiated contracts awarded to us, you will earn a commission of 10% on the amount secured and entered into the order entry system. "Development" is defined as any effort involving design, layout, mask fabrication, wafer fabrication and delivery of functional samples and/or prototypes. Non-recurring engineering charges such as preliminary tooling, test program generation, qualification charges etc., if included in the basic contract, are considered Development and are commissionable. Such Development orders are commissionable and payable at the time of order entry. Payments are to be made in accordance with Paragraph 5. Specifically excluded as Development are production tooling, "full-up" qualification units, pre-production units, first article units and production units. Special charges such as technology transfer and test equipment are not commissionable. The maximum commission payable on any Development program shall be \$50,000. Add-ons or additional Development orders arising out of orders on which a commission has already been paid will not be commissionable. With respect to cost reimbursable type contracts, the Commission Rate will be a percentage of the net amount of the original negotiated

estimated cost exclusive of Facilities Capital Cost of Money (FCCOM) and Negotiated Fee plus any additional negotiated cost related to changes in scope. Additional negotiated cost related to changes in scope not including cost overruns is commissionable.

5. COMMISSION PAYMENTS. We will pay you your earned Commissions, less applicable setoffs if any, within six (6) weeks after the end of the period (our fiscal "month") in which they are earned. However, payment of Commissions earned on Distributor resales is contingent on our receipt of the Distributor's resale report for the period in question.
6. TERM OF AGREEMENT. This Agreement will commence on the date first written above and will continue in effect until terminated by either party.

Either you or we may terminate this Agreement for convenience at any time by written notice to the other.

We may terminate this Agreement for convenience by giving not less than ninety (90) days prior written notice. On termination for convenience you will continue to earn full commissions on our sales and Distributor resales made prior to expiration of the notice period and eighty (80%) of your then applicable commission rate on sales (but not Distributor resales) made after the notice period based on Orders booked prior to expiration of the notice period and scheduled for shipment within 12 months.

You may terminate this Agreement for convenience by giving not less than ninety (90) days prior written notice. On termination for your convenience you will continue to earn full Commissions on our sales (but not on Distributor resales) made prior to expiration of the notice period.

We may also terminate this Agreement for your default if (i) you fail to perform a material obligation required by this Agreement, including but not limited to obligations set forth in paragraph 2 or (ii) a trustee in bankruptcy or a receiver is appointed for you or you make an assignment for the benefit of creditors. With respect to (i) above, we shall give you written notice of such failure, and you shall have ninety (90) days from the date of such notice to correct such failure to our satisfaction. In the event that you do not correct such failure by the end of such period or that you acknowledge to us to be unable or unwilling to correct such failure at any time during such period, then this Agreement will terminate on the ninetieth day after said notice for your default. With respect to (ii) above, we may terminate this Agreement for your default immediately by giving you written notice of termination. You will continue to earn Commissions on our sales (but not on the Distributor resales made prior to expiration of the notice period) termination under either (i) or (ii) above.

Commission payments will be made in the manner provided in Article 5, above. The foregoing provisions of this Article 6 constitutes our sole liability and your exclusive remedy for termination of this Agreement.

You agree to dispose of any materials we have furnished to you in accordance with our instructions, and to cease any and all use of our names and trademarks in conjunction with any of your activities, promptly on termination of this Agreement.

During the term of this Agreement and for a period of one (1) year after termination, we and you agree not to disclose to any third party any confidential information of the other party learned as a consequence of performance under this Agreement.

7. MISCELLANEOUS PROVISIONS.

- A. Relationship. You are an independent contractor whose sole authority under this Agreement is to solicit Orders in lawful and ethical manner for acceptance by us. You agree to hold us harmless from any claims or damages arising from your having exceeded your authority hereunder.
- B. Compliance with Laws. You agree you will conduct your operations and activities in the performance of this Agreement in compliance with all applicable laws and regulations.
- C. Assignment. You understand that you have no right to assign this Agreement to any other party without our prior written consent. If you make an assignment in whole or in part, including but not limited to an assignment of any sums payable by us hereunder without our consent, we may elect to disregard such assignment.
- D. Notices. Any notice required by this Agreement must be in writing addressed to the other party at its address indicated herein or to such change of address as has been given by notice, and sent by certified or registered mail, postage prepaid. The notice will be effective on date of mailing.
- E. Waivers. Our failure to promptly enforce any right or remedy to which we may be entitled herein will not constitute a waiver of that right or remedy.
- F. Setoffs. We reserve the right to set off any amount you owe us against any sum we owe you.
- G. Entire Agreement. This Agreement, Attachments and Addenda hereto constitute the entire agreement between you and us as to the subject matter herein, integrates all discussions and understandings leading up to this Agreement, and supersedes

all prior agreements between you and us pertaining to that subject matter. No modification of this Agreement will be deemed effective unless made in writing signed by you and one of our authorized offices.

H. Governing Law. This Agreement is to be construed and enforced according to the law of the State of Florida, U.S.A.

HARRIS CORPORATION
SEMICONDUCTOR SECTOR

By: W. E. Wagner

Printed Name: W. E. Wagner

Title: Vice President - Sales
Semiconductor Products
Division

REPRESENTATIVE (Name of Company)

COMPONENT SALES, INC.

By: James L. N. N. N.

Printed Name: JAMES L. N. N. N.

Title: PRESIDENT

DOMESTIC SALES REPRESENTATIVE AGREEMENT

LIST OF ATTACHMENTS

- ATTACHMENT 1: Product List (noting any exclusions)
- ATTACHMENT 2A: Territory (with list of any excluded accounts as to Semiconductor Products Division)
- ATTACHMENT 2B: CICD House Programs and House Accounts
- ATTACHMENT 3: Marketing Inquiry Form
- ATTACHMENT 4: Terms and Conditions of Sale (in effect on date of this Agreement)
- ATTACHMENT 5: Representative Commission Payment Schedule

ATTACHMENT 1

PRODUCT LIST

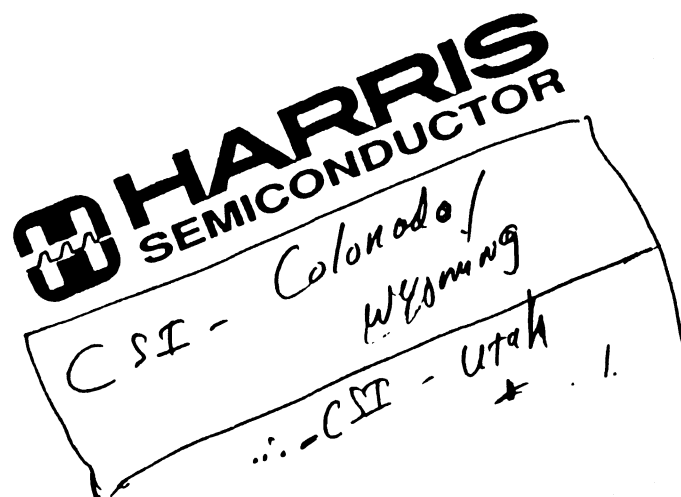
- All products manufactured by HARRIS SEMICONDUCTOR PRODUCTS DIVISION. Reference the current HARRIS Cost and Resale schedule.
- HARRIS SEMICONDUCTOR CUSTOM INTEGRATED CIRCUIT DIVISION'S Communications, Strategic, Tactical and Standard Data Sheet Products. Reference Data Sheet Products price list.
- Gallium Arsenide Microwave Products manufactured by HARRIS MICROWAVE SEMICONDUCTOR. Excluded from this listing is all Microwave amplifiers.

ATTACHMENT 2A

REP TERRITORIES AS OF NEW AGREEMENT

AUGUST 1, 1986

<u>REP NAME</u>	<u>CODE</u>	<u>TERRITORY DESCRIPTION</u> <u>BY U.S. ZIP CODE</u>	<u>EXCEPTIONS</u>
Component Sales, Inc.	8AB2	590XX - 599XX 800XX - 831XX 837XX 840XX - 847XX	<i>837XX 8/18/86</i>



HARRIS
SEMICONDUCTOR

MR. JIM MARTIN
Component Sales, Inc

GARY PINELLI

COMPONENT SALES, INC

REV. 0
6/30/86

CICD AND GALLIUM ARSENIDE MICROWAVE

HOUSE PROGRAM AND HOUSE ACCOUNT EXCLUSIONS

(NOT APPLICABLE TO CICD DATA SHEET PRODUCTS)

1) Any programs within the territory which are contracted to said Customers by Maryland Procurement Agency (National Security Agency). NSA designed CYPHER family circuits sold to non-NSA military programs and to Customers participating in the Commercial COMSEC Endorsement Program (CCEP) are not exclusions unless listed in this document.

2) Any programs within the territory which are classified by Harris Custom Integrated Circuits Division as a strategic military program to include as a minimum any portion and/or in whole the following programs: Trident, MX/Peacekeeper, MK-21, MK-21A, Pen Aids, Re-entry Vehicle Programs, and derivatives thereof. MX/Peacekeeper Re-entry Programs and derivatives. HCICD is at its sole discretion, may from time to time add further exclusions when warranted.

3) U.S. Government Agencies.

TERMS AND CONDITIONS OF SALE

1.5 ACCEPTANCE OF BUYER'S ORDER IS EXPRESSLY MADE CONDITIONAL ON BUYER'S ASSENT TO ALL OF THE TERMS AND CONDITIONS BELOW AND ON THE FACE HEREOF. FAILURE OF BUYER TO GIVE SELLER NOTICE OF EXPRESS OBJECTIONS TO THESE TERMS AND CONDITIONS IN WRITING ADDRESSED TO SELLER'S CONTRACTS DEPARTMENT WITHIN 10 DAYS AFTER THE DATE OF SELLER'S ACKNOWLEDGEMENT OF THE ORDER SHALL BE CONCLUSIVE OF BUYER'S ACCEPTANCE.

1.6 PRICE

Prices do not include applicable taxes or freight. If Seller is required by law to collect any taxes, Seller will invoice and Buyer shall pay same unless adequate proof of exemption is furnished. Buyer reimburses Seller for prepaid freight charges, for convenience. Seller may invoice Buyer therefor on shipment weight and destination under the carrier's applicable charge schedule.

Prices stated for production quantities of goods other than Seller's standard catalog items are best for Buyer's budgetary purposes only, and are subject to upward adjustment based on Seller's incremental costs.

Seller reserves the right to invoice Buyer, and Buyer shall pay, as a separate "cost pass-through" adder, any increase imposed by Seller's suppliers on materials of unusual price volatility, including but not limited to precious metals such as gold, to the extent such materials are incorporated in the goods shipped hereunder.

1.7 DELIVERY, TITLE AND RISKS

Delivery is F.O.B. Seller's plant.

Quoted delivery dates are estimates only. Seller will endeavor to meet his estimate but shall be held harmless from performance and not be liable for delay in delivery or non-delivery attributable in whole or in part to (i) any cause beyond his reasonable control, including but not limited to, act of God, war, whether in sovereign or contractual capacity, judicial action, war, civil disturbances, insurrection, sabotage, act of a public enemy, labor difficulties or disputes, failure of or delay in delivery by its suppliers or carriers, commercial inoperability (irrespective of contractual foreseeability, of its contracting), shortages of energy, raw materials, labor, or equipment, inadequate yield of its products, Seller's reasonable efforts, accident, fire, flood, storm or other act of God, or (ii) its fault or negligence. Where Seller deems warranted by the circumstances, he may allocate risk and deliveries among his customers.

Seller may overship or undership quantities by up to three percent (3%) (five percent (5%) in the case of non-standard goods, whether or not listed in Seller's catalog, which shall constitute compliance with its order, but Buyer shall pay for only the quantity actually delivered at the applicable ex-manufacturer unit price.

Loss and risk of loss or damage to the goods shall pass to Buyer at the time Seller delivers possession of the goods to the carrier, without regard to notification of shipment or selection of the carrier. Provided, however, that goods (whether finished or partially completed) held by Seller at Buyer's request for scheduled delivery date shall be at Buyer's risk.

Withstanding passage of title, Seller reserves a security interest in and right of repossession of goods until fully paid for by Buyer.

1.8 MODIFICATION AND SUBSTITUTION OF GOODS

Seller may modify the specifications of goods of his own design at any time without notice and may use delivery of the goods manufactured to the modified specifications for those described herein even if such modification does not materially affect form, fit or function.

1.9 PAYMENT

Subject to prior approval and extension of credit by Seller, Buyer shall pay the net invoiced amount in United States currency within thirty (30) days from date of Seller's invoice. Seller reserves the right to withhold previously approved credit and in such event Buyer shall comply with the new payment terms as a condition for delivery.

Each shipment shall constitute an independent transaction, and Buyer shall pay for same in accordance with the specified payment terms.

Buyer shall make payment without regard to prior inspection of the goods, but Buyer's right of inspection pursuant to this contract shall not be impaired thereby.

1.10 WARRANTIES

Seller warrants that, at the time of delivery, goods of his own manufacture are free from defects in material and workmanship, and conform to his specifications or, if applicable, to mutually agreed written specifications referenced in the description of goods herein.

Seller's warranty shall not extend beyond whichever of the following periods is applicable:

- unmounted integrated circuits (ICs) in water or die form — a period of thirty (30) days;
- hybrid IC devices — a period of one hundred eighty (180) days;
- assembled (mounted) ICs, standard, mixed, or custom, in production quantities — a period of one (1) year.

Warranty period measured from date of Seller's shipment of the goods or invoice, whichever is later.

WARRANTY shall apply to any experimental, developmental, preproduction, sample (incoming with notice), or fallout (i.e. out of spec. with notice), goods of Seller.

Buyer's acceptance of the goods, either actual, or constructive by passage of sixty (60) days (twenty days for unmounted ICs in water or die form) from date of shipment without written notice of non-conformance to Seller, whichever, made of acceptance occurs first, shall be conclusive of fulfillment of his warranty and full satisfaction of Buyer with respect to everything except defects. Buyer's retention or use of the goods after expiration of the applicable warranty period, to the extent above without having given Seller notice of latent defects shall be conclusive of Seller's fulfillment of this warranty and full satisfaction of Buyer in all respects, including absence of latent defects.

Warranty warranties extend to Buyer only, and not to Buyer's customers or to users of Buyer's products. These warranties are the only warranties made by Seller and shall not be enlarged by representations, descriptions, technical advice, service, samples, models, or otherwise.

BUYER MAKES NO OTHER WARRANTIES AND BUYER ACCEPTS THE FOREGOING IN LIEU OF ANY AND ALL OTHER WARRANTIES WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

1.11 RETURNS AND OTHER DISPOSITION

Buyer shall give Seller written notice of rejection together with a detailed statement of alleged defects promptly on inspection of the goods and discovery of the deficiencies, but not later than 100 days after shipment by Seller (twenty (20) days in the case of unmounted ICs in water or die form). Buyer may return the affected goods F.O.B. Seller's plant, provided that (i) such timely notice is given for the specific goods proposed to be returned, and (ii) the return is made promptly. After Buyer's receipt of Seller's express written authorization, and in accordance with Seller's terms contained in the written authorization, which authorization shall not be unreasonably withheld, Buyer shall not dispose of the affected goods in any other manner without first having received a written authorization for such other disposition.

Buyer shall give Seller written notice of breach of Seller's warranty, together with a detailed statement of the alleged latent defect or the manifestation thereof as observed by Buyer, promptly on discovery of such defect or manifestation but not later than the end of the applicable warranty period. Rejection or other disposition of the affected goods shall be made only in the manner and subject to the conditions as are specified in Paragraph 1.11 of this Article 1.

Buyer shall have no liability for goods returned or otherwise disposed of by Buyer (i) in violation of the provisions of Paragraph 1.11 of this Article, or (ii) in violation of Paragraph 1.11 of this Article, or (iii) as to which examination discloses that the asserted deficiency or defect (a) is not present, or (b) cannot reasonably be verified because of the condition of the goods attributable to an event which occurred during the period from shipment by Seller to Seller's receipt of the return shipment, or (c) is attributable to a cause which occurred during such period, including but not limited to, neglect, improper installation or assembly, alteration, accident, unauthorized repair, improper or mishandling. Any such returned goods may be reshipped to Buyer and Buyer shall be liable for shipping charges. Buyer shall continue to be liable for any portion of the contract price not yet paid further for Seller's reasonable charges for examination and handling, without regard to return.

1.12 PATENT INDEMNITY

Buyer shall defend any suit or proceeding brought against Buyer insofar as such suit or proceeding is on a claim that goods manufactured and supplied by Seller to Buyer constitute direct infringement of any duly issued United States patent and Seller shall pay all damages and costs finally determined against Buyer, provided that Seller (i) is promptly informed and furnished a copy of communication, notice or other action relating to the alleged infringement, and (ii) is given opportunity to be heard and to present its defense.

Proceeding. Seller shall not be obligated to defend or be liable for costs and damages in the event of a claim that goods manufactured and supplied by Seller to Buyer constitute direct infringement of a United States patent and Buyer is enjoined from using such goods. Seller shall not be liable for expenses with either (i) procure for Buyer the right to use the goods free of any liability for patent infringement, or (ii) replace the goods with a non-infringing substitute otherwise available at the time of this contract, or (iii) refund the purchase price of the goods less the agreed value of Buyer's goods.

It is an implied condition of this contract that Seller shall not be liable for damages in the event of a claim that goods manufactured and supplied by Seller to Buyer constitute direct infringement of a United States patent and Buyer is enjoined from using such goods. Seller shall not be liable for expenses with either (i) procure for Buyer the right to use the goods free of any liability for patent infringement, or (ii) replace the goods with a non-infringing substitute otherwise available at the time of this contract, or (iii) refund the purchase price of the goods less the agreed value of Buyer's goods.

It is an implied condition of this contract that Seller shall not be liable for damages in the event of a claim that goods manufactured and supplied by Seller to Buyer constitute direct infringement of a United States patent and Buyer is enjoined from using such goods. Seller shall not be liable for expenses with either (i) procure for Buyer the right to use the goods free of any liability for patent infringement, or (ii) replace the goods with a non-infringing substitute otherwise available at the time of this contract, or (iii) refund the purchase price of the goods less the agreed value of Buyer's goods.

It is an implied condition of this contract that Seller shall not be liable for damages in the event of a claim that goods manufactured and supplied by Seller to Buyer constitute direct infringement of a United States patent and Buyer is enjoined from using such goods. Seller shall not be liable for expenses with either (i) procure for Buyer the right to use the goods free of any liability for patent infringement, or (ii) replace the goods with a non-infringing substitute otherwise available at the time of this contract, or (iii) refund the purchase price of the goods less the agreed value of Buyer's goods.

It is an implied condition of this contract that Seller shall not be liable for damages in the event of a claim that goods manufactured and supplied by Seller to Buyer constitute direct infringement of a United States patent and Buyer is enjoined from using such goods. Seller shall not be liable for expenses with either (i) procure for Buyer the right to use the goods free of any liability for patent infringement, or (ii) replace the goods with a non-infringing substitute otherwise available at the time of this contract, or (iii) refund the purchase price of the goods less the agreed value of Buyer's goods.

1.13 TERMINATION AND CANCELLATION

Buyer shall not terminate, suspend performance under or issue a notice of breach of this contract, whole or in part, without Seller's written consent thereto. Buyer's liability for termination, suspension or hold shall include Seller's charges therefor, beyond the price of the goods actually delivered and not for Buyer's disposition of such charges, including but not limited to costs for labor, materials, and overhead incurred or committed for this contract together with a reasonable allowance for overhead, penalties and profit, and a price adjustment (bill-back charge) if the quantity of goods actually delivered is less than that justifying quantity discount pricing granted by Seller based on Buyer's order.

Neither party shall cancel this contract for breach of any of its provisions by the other party, without giving such other party advance written notice thereof and a reasonable time in which to cure the breach, except in the event of (i) insolvency of such other party, or (ii) failure of Buyer to timely payment. Upon cancellation the parties shall be entitled to rights and remedies available at or under this contract, except to the extent excluded or limited by this contract.

Seller may cancel any portion of this contract covering goods not released by Buyer within two (2) months after Seller's receipt of the order (ARO) for delivery within eighteen (18) months. At Buyer's liability, therefor shall include bill-back charges if applicable.

Seller, without cancelling this contract, may decline to make further deliveries hereunder in event of a breach by Buyer, but should Seller elect to continue delivering despite the breach such action shall not constitute a waiver of Buyer's breach or in any way affect Seller's remedies therefor.

1.14 LIMITATION OF BUYER'S REMEDIES AND DAMAGES

In no event shall Seller be liable to Buyer or to any party claiming under Buyer for special, incidental or consequential damages for breach of any of the provisions of this contract.

Seller's maximum liability and Buyer's maximum recovery for any claim arising out of or in connection with the sale or use of goods delivered by Seller hereunder shall not in the aggregate exceed much of the price as has been paid to Seller hereunder less the purchase price of goods delivered or retained by Buyer hereunder.

Subject to the exclusions and limitations specified in Paragraphs a and b of this Article 1, Buyer and Seller expressly agree that Buyer's sole and exclusive remedy and Seller's sole and exclusive liability for breach of Seller's warranty specified in Article 1, above, shall, at Seller's option and subject to the provisions of Paragraph c of Article 1, above, be the repair, replacement or crediting of Buyer's account for the purchase price of applicable goods returned by Buyer to Seller pursuant to the provisions of Paragraph b of Article 1, above, including but not limited to compliance with the notice requirements thereof, plus reimbursement of transportation charges paid by Buyer. If Seller elects to repair or replace goods which fail to conform to Seller's warranty, Seller shall have a reasonable time in which to make the repair or replacement. Seller's warranty for repaired or replacement goods shall as specified in Article 1, but only for the balance of the applicable original warranty period or thirty (30) days from date of repair, replacement, whichever is greater.

If, based on Buyer's assertion of deficiencies or defects in the goods and prior to Seller's examination thereof, Seller elects to replace or credit Buyer's account therefor, such replacement or credit shall be conditioned on (i) Buyer's retention of the goods and prompt return thereof in accordance with Seller's written instructions, and (ii) Seller's verification of the presence of the asserted deficiency defect (and attributable to other than a cause which occurred after shipment of the goods by Seller) prior to Seller's receipt of the return, failing either of which Seller may invoice Buyer and Buyer shall promptly make payment therefor.

1.15 TECHNICAL DATA AND INVENTIONS

Unless specifically identified and priced in this contract as a separate item or items to be delivered by Seller (and, in that event, except to the extent so identified and priced, the sale of goods hereunder constitutes an implied license under, access to, or entitlement of any kind to any of Seller's technical data, including but not limited to designs, process technology, masks, and drawings, or to Seller's inventions (whether or not patentable), irrespective of whether any such technical data or invention, or any portion thereof, arose out of work performed under or in the course of this contract, and irrespective of whether Buyer has paid or is obligated to pay Seller for any part of the design and/or development of the goods.

Seller shall not be obliged to safeguard or hold confidential any data, whether technical or otherwise, furnished by Buyer for Seller's performance of this contract unless (and only to the extent that) Buyer and Seller have entered into a separate written confidentiality agreement.

1.16 SOURCE INSPECTION, INDEMNIFICATION, AUTHORIZATION

Source inspection by Buyer or Buyer's customer shall be subject to Seller's reasonable charges based on impact thereon on Seller's resources.

Buyer shall indemnify and hold Seller harmless from any and all suits, damages, and expenses (including personal injury (including death) or loss or damage to property, of Buyer's employees or agents) during or in connection with any visit to Seller's plant regarding this contract.

Notwithstanding any other provision of this contract, Buyer shall have no right of access to Seller's plant except as specifically authorized in advance by Seller.

1.17 U.S. GOVERNMENT CONTRACTS

If the goods to be furnished under this contract are to be used in the performance of a U.S. Government contract or subcontract and a U.S. Government contract number is identified on Buyer's purchase order, those clauses of the applicable U.S. Government procurement regulation which include in U.S. Government subcontracts is mandatory under Federal Statute or Regulation shall be incorporated herein by reference.

1.18 MISCELLANEOUS TERMS

In the event of a conflict between the provisions of this contract the following order of precedence shall apply to resolve such conflict: (i) terms typed on the face hereof; (ii) terms of any attachments hereto; (iii) these printed terms; (iv) provisions appearing in applicable specifications.

Buyer shall not assign this contract or any right or interest therein without the prior written consent of Seller.

All notices required or permitted hereunder shall be in writing, if properly addressed and prepaid notices shall be effective on date sent, otherwise on date received.

This contract supersedes all previously communicated transactions, and understanding, whether oral or written, and constitutes the sole and entire agreement between the parties hereto, and the parties shall be bound by the terms of this contract, and any modification or deletion of, or addition to, these terms shall be binding on Seller only if made in writing and signed by a duly authorized representative of Seller. Seller's home office is Melbourne, Florida.

ATTACHMENT 5

REPRESENTATIVE COMMISSION PAYMENT SCHEDULE

<u>Cummulative % of Plan</u>	<u>Commission Rate</u>
75%	4.000%
76	4.020
77	4.040
78	4.060
79	4.080
80	4.100
81	4.120
82	4.140
83	4.160
84	4.180
85	4.200
86	4.220
87	4.240
88	4.260
89	4.280
90	4.300
91	4.320
92	4.340
93	4.360
94	4.380
95	4.400
96	4.420
97	4.440
98	4.460
99	4.480
100	4.500
101	4.525
102	4.550
103	4.575
104	4.600
105	4.625
106	4.650
107	4.675
108	4.700
109	4.725
110	4.750
111	4.775
112	4.800
113	4.825
114	4.850
115	4.875
116	4.900
117	4.925
118	4.950
119	4.975
120% - over	5.000

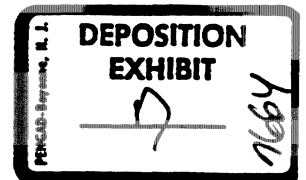
Tab F

SUB-REPRESENTATION AGREEMENT

Component Sales, Inc., a Colorado corporation ("Representative"), agrees with Harris Marketing, Inc., a Utah corporation (the "Sub-Rep"), as follows effective the 1st day of ~~December~~ ^{MARCH 1988} 1988.

1. Purpose. Representative is a sales representative for certain Contract Principals pursuant to Sales Representation Agreements (the "Contracts") as described in Exhibit A attached hereto ^{or acquired after December 1, 1986 and shared with CSI or its affiliates.} The Contracts grant certain rights to the Representative in an area which includes but is not limited to the state of Utah. The Sub-Rep is engaged in sales work in the state of Utah, and the Representative maintains no offices or personnel in Utah for these Contracts. The purpose of this Agreement is to allow the Sub-Rep to provide direct sales representation within the state of Utah, subject to supervision and control by Representative, with respect to all of the Contracts and to provide for mutually satisfactory compensation to the parties in connection with their respective duties.

2. Duties of Sub-Rep. The Sub-Rep is hereby designated as the Sub-Sales Representative in the state of Utah to provide all services with respect to the Contracts of such state. The Sub-Rep agrees to provide all services required within Utah in connection with servicing the Contracts, including taking all action reasonably requested or directed by either the Contract Principals or by Representative. The Sub-Rep acknowledges that it is fully familiar with applicable laws and business practices as they relate to sales representation agreements, and the Sub-Rep agrees to



perform all of its duties hereunder in accordance with the highest legal and ethical standards and in accordance with good business practice.

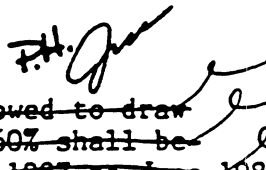
The Sub-Rep shall maintain a sales office in Utah which is staffed with competent sales personnel. The staff will be sufficient to adequately cover the sales territory.

The Sub-Rep shall be responsible for reporting bookings, billing (invoices), and income on a monthly basis to Representative. The reports shall be by account, by salesperson, and by contract in a form mutually agreed on and shall be submitted by the 15th of each month for the preceding month.

The Sub-Rep shall attend sales meetings and planning sessions as required and shall submit all required reports to Representative including those required by Contract Factories.

The Sub-Rep is responsible for all their own expenses associated with the Sub-Rep's carrying out of the required duties. The duties shall not be limited to those outlined above.

3. Compensation. Compensation shall be computed and paid hereunder as follows:

(a) Representative shall pay to the Sub-Rep an amount equal to ⁸⁰60% (sixty percent) of the "gross commission revenue" of ~~From Jan. 1986 thru March 1987, Sub-Rep shall be allowed to draw the Contracts. 80% of gross commissions and any excess over actual 60% shall be deducted from commissions of 60% equally over the period from April 1987 to June 1987.~~ 

(b) Amounts due to the Sub-Rep hereunder shall be determined on a calendar-month basis and shall be paid within 20 days after the end of the relevant calendar month. Representative shall have responsibility for preparing accurate accounting records with respect to gross commission revenue.

(c) For purposes of this Agreement the term "gross commission revenue" shall mean all amounts received by Representative during the term of this Agreement as commissions or other earned income under the Contracts for sales validly made in Utah by the Sub-Rep subject to this Agreement, reduced by any deductions for bad checks, returns, or other amounts refunded by Representative or not actually received by the Representative. Any disputes relating to gross commission revenue shall be resolved in accordance with the Representative's customary accounting practices as determined by the Representative's regular accountants.

(d) In the event that any Contract Principal makes any payment to the Sub-Rep, the Sub-Rep shall immediately endorse and deliver such payment to the Representative.


4. Supervision by Representative. The Sub-Rep acknowledges that Representative has a valuable asset in the Contracts, has special knowledge of the Contract Principals, and has a relationship with the Contract Principals which must be preserved. All duties of the Sub-Rep will therefore be performed subject to the supervision and control of Representative and in a manner reasonably directed by Representative. The Sub-Rep will not make sales to any customer outside the state of Utah except with the prior written consent of Representative.

5. Confidentiality. The Sub-Rep acknowledges that all information relating to the Contracts, including without limitation, information concerning the identity of customers, pricing matters, product information, and all other information utilized in connection with performing services pursuant to the Contracts is confidential and constitutes a valuable trade secret

of Representative. Except for the prior consent of Representative, the Sub-Rep will not disclose any such information to any third party and will not utilize such information in any manner competitive with or adverse to Representative or the Contract Principals.

6. Noncompetition. During the term of this Agreement and for a period of two years after the termination of this Agreement, regardless of the reason for termination, the Sub-Rep agrees that it will not compete with Representative within the states of Colorado and Utah. The noncompetition provisions hereof shall include any competition, direct or indirect, involving the provision of sales representation services to any Contract Principal, any other principal now or hereafter represented by Representative or any principal whose products are competitive with the lines represented by Representative. Indirect competition shall include but not be limited to competition as an independent contractor, employee, shareholder, officer, director, or in any other capacity whatsoever. The Sub-Rep shall cause each of its employees and sales agents to enter into a noncompetition covenant for the benefit of Representative, which noncompetition covenant shall be consistent with the covenants set forth herein. The Sub-Rep will be permitted to represent principals not represented by Representative within the state of Utah provided that such principals' products are not directly competitive with the Contract Principals' products and provided that revenues from such principals do not exceed 15% (fifteen percent) of Sub-Rep's gross revenues, except for Advanced Printed Circuits, Inc.

In addition, Sub-Rep after termination of this agreement will be specifically allowed to represent other contract principals even though they may be in direct competition with the contract principals subject



7. Enforcement. The parties acknowledge that any breach or threatened breach of the provisions of Paragraph 5 or Paragraph 6 above could cause immediate and irreparable damage to Representative and to its Contract Principals. It would not be possible to ascertain the monetary damages resulting from such a breach nor would such monetary damages provide adequate relief for Representative and its Contract Principals. Accordingly, the Sub-Rep agrees that upon the existence of any breach or threatened breach of the provisions of Paragraph 5 or Paragraph 6, Representative shall be entitled to a temporary restraining order, preliminary injunction, or other appropriate equitable relief.

8. Option to Merge. *At any time agreeable to both parties,* After one year from the date of this agreement, there shall be a mutually agreeable option to merge Harris Marketing, Inc. and Harris CSI, Inc. The terms of the merger shall be per the agreement in Exhibit B.

9. Term. This Agreement shall continue in effect for one year *and shall automatically be renewed each year unless* ~~terminated at any time by the Representative for any reason~~ *60 days prior written notice is given.* ~~terminated at any time by the Representative for any reason~~ *60 days prior written notice is given.*

10. Miscellaneous.

(a) This Agreement is entered into in the state of Colorado and shall be governed in all respects with the laws of such state.

(b) This Agreement is binding upon and shall inure to the benefit of the respective parties and their respective successors and assigns.

(c) This Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof and may not be amended or modified except in writing subscribed to by both of such parties.

Dated effective the day and year first above set forth.

COMPONENT SALES, INC.

By: 

HARRIS MARKETING, INC.

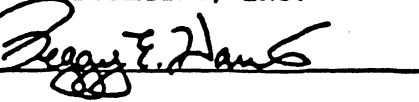
By: 

EXHIBIT A

Sales Representation Agreements - Contract Principals

Harris
Semiconductor Sales
~~Parasonic Standard Components Division~~

Unitrode

Seeq

~~Scribe~~

~~Bipolar Integrated Technology~~

Visnay

Semiconductor Technology Inc.

EXHIBIT B

This is a letter agreement concerning the formation of a new corporation to conduct a sales representative business in the State of Utah. For convenience, we will refer to the new corporation as the "Corporation," to Component Sales, Inc. as "CSI," to Martin Investments as "Martin," and to you as "Harris," but with the understanding that you also are agreeing on behalf of your corporation and will have the right to assign certain of your rights under this letter to your corporation.

We agree as follows:

1. Formation of Corporation. The Corporation will be incorporated by CSI attorneys in the State of Nevada. The Corporation will be established in standard form with a name to be mutually agreed to by us and with such other standard provisions for a Nevada corporation as may be recommended by our legal counsel. The Corporation will be duly qualified to conduct business in the State of Utah.

2. Stock Ownership. The Corporation will be capitalized at between \$5,000 and \$8,000, with each of the shareholders paying in cash for its proportionate share of the total stock.

3. Employment of Harris. Harris shall be employed by the Corporation devoting all of her time and efforts during normal business hours to the affairs of the Corporation, except as otherwise permitted below. Harris will enter into a standard employment agreement of the type which CSI has used for its key officers and managerial personnel, including a reasonable

non-competition covenant for the protection of the Corporation. This standard employment agreement will be subject to review and mutual satisfaction to Harris and CSI. Harris will be responsible for all of her own expenses incurred in connection with performing her duties. It is expressly understood that this agreement is contingent on an execution of said standard employment agreement.

In addition to the other special compensation provided for below,

Harris will receive a ^{80%} ~~proportion~~ of all gross commissions earned by her ~~as follows:~~ ^{on line provided to her by CSI, per Exhibit A, or acquired after}

~~Annual Gross Sales~~

~~Percent of Commissions~~

~~Commissions~~

~~to Harris~~

~~First \$25,000~~

~~70%~~

~~\$25,000 - \$50,000~~

~~73%~~

~~\$50,000 - \$100,000~~

~~75%~~

~~\$100,000 - \$112,500~~

~~76%~~

~~\$112,500 - \$125,000~~

~~77%~~

~~\$125,000 - \$137,500~~

~~78%~~

~~\$137,500 and up~~

~~79%~~

*from Advanced
Printed Circuits*

4. Existing Lines of Harris. Harris and any corporation controlled by her will immediately assign all lines and work in progress to the Corporation.

5. CSI Assignment. CSI will assign the accounts to the Corporation in Utah per Exhibit A.

6. Option for Further Purchases. CSI and Martin shall grant to Harris certain options as follows:

(a) Harris shall have the right to acquire up to a further five percent of the total outstanding stock of the corporation at a purchase price of \$1,000 for each one percentage

point purchased, provided that she continues to be employed by the Corporation and otherwise honors her agreements with the Corporation for one year.

(b) Initial ownership in the corporation shall be determined by valuing income from Act I and Act II vs income from the other product lines. Harris shall have 35% of the corporation and shall receive an additional 1/2% for each 1% that Act I and Act II income exceeds 35%. A "sanity check" will be taken looking at backlog.

(c) Over a period of five years on other mutually acceptable terms, Harris shall have the right to purchase the remainder of the stock of the Corporation at the fair market value of such stock. The fair market value of the Corporation used in determining the value of the shares of stock to be purchased shall be determined by valuing the Corporation at an amount equal to 100% of its gross revenues for its most recently completed fiscal year plus 100% of its shipped backlogs on hand at the time the option is exercised. Harris may purchase 100% of the corporation after one year if this is mutually agreeable between Harris, CSI, and Martin.

7. Management of the Corporation. Each of the shareholders of the Corporation shall have the right to designate one director of the Corporation until such time as Harris has acquired all of the issued and outstanding stock of the Corporation. Harris shall be the president of the Corporation and the parties shall agree to such other reasonable and standard terms as may be appropriate for the management of the Corporation.

8. Service Agreement. For so long as CSI is a shareholder of the Corporation, it will provide centralized management and other

services to the Corporation on terms similar to those applicable to those between CSI and its other affiliates.

9. Assurances. Each of the parties will warrant all information provided by it hereunder and indemnify against any liabilities caused by it.

10. Separation. At any time Harris and/or CSI want to part company Act I and Act II circuit board lines will be retained by Harris at no cost to her. All other lines will revert to CSI at no cost to it.

This letter is a letter of intent only but will provide a basis for more formal agreements among the parties. Please indicate your concurrence with the foregoing matters by signing and returning one copy of this letter to us.

The effective date of this agreement for all intents and purposes will be December 1, 1986.

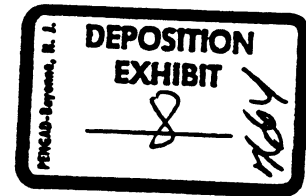
Very truly yours,

James L. Martin, on behalf of Martin
Investments and Component Sales, Inc.

Agreed to this _____ day of ^{MARCH 1988}~~November 1986~~.

Peggy Harris, individually, and on
behalf of Harris & ^{MARKETING}~~Associates~~, Inc.

Tab G



November 7, 1986

Letters sent to:
Charlie Weekes, Harris
Terry McSweeney, Unitrode
Walter Dean, STI
Dave Young, BIT
Glen Smith, Vishay
Phil Ortiz, Seeq

Dear :

As you have been informed, Component Sales, Inc. has been forced to open a new office in Salt Lake City. We appreciate your help and support in this change-over and assure you of our commitment to continue our excellent support and service in the Utah market.

The new office is:

Harris/CSI, Inc.
1817 South Main, Suite 12
Salt Lake City, Utah 84115-2036

Phone: 801-467-2299
Fax: 801-467-2360

President: Peggy Harris
Inside sales: Peggy Johnson

An outside salesperson will be added as soon as possible. Peggy Harris offers a great depth of experience in the sales representative business as well as in the Utah market. I'm sure you will be as pleased as we are.

Again, thank you for your support during this very difficult period. If there are any questions or concerns, please call me.

Best regards,

Jim Martin

cc: Peggy Harris

Tab H

SUB-REPRESENTATIVE AGREEMENT

THIS AGREEMENT is hereby made October 1st, 1988, by and between Component Sales, Inc., a Colorado corporation (hereinafter "Representative") and Harris Marketing, Inc., a Utah corporation (hereinafter "Sub-Rep").

RECITALS/PURPOSE

Representative is a sales representative for certain contract principals pursuant to sales representation agreements (the "contracts") as described in "Exhibit A" attached hereto or acquired after December 1, 1986, and shared with CSI or its affiliates. Those contracts grant sales rights to the representative in an area which includes, but is not limited to, the State of Utah.

The sub-rep is engaged in sales work in the State of Utah and elsewhere and the representative maintains no offices or personnel in Utah to service these contracts. The purpose of this Agreement is to allow the sub-rep to provide direct sales representation within the State of Utah, subject to certain supervision and control by the representative, with respect to all of the contracts and to provide for mutually satisfactory compensation to the parties in connection with their respective duties.

NOW, THEREFORE, in consideration of the foregoing and the covenants herein contained, it is agreed, as follows:

(1) Duties of Sub-Rep. The sub-rep is hereby designated as the exclusive sales representative in the State of Utah to provide all services with respect to the contract in such state. The sub-rep agrees to provide all services required within Utah in connection with servicing the contracts,

including taking all action reasonably requested or directed by either the contract principals or by the representative. The sub-rep acknowledges that it is fully familiar with all applicable laws and business practices as they relate to sales representation agreements, and the sub-rep agrees to perform all of its duties hereunder in accordance with the highest legal and ethical standards and in accordance with good business practice.

The sub-rep shall maintain a sales office in Utah, which is staffed with competent sales personnel. The staff will be sufficient to adequately cover the sales territory and service the contracts.

The sub-rep shall be responsible for reporting bookings, billings (invoices) and income on a monthly basis to the representative. The reports shall be by account, by sales person and by contract in a form mutually agreed on and shall be submitted by the 15th day of each month for the preceding month.

The sub-rep shall attend sales meetings and planning sessions as reasonably necessary and shall submit all required reports to the representative, including those required by contract factories.

The sub-rep is responsible for all of its own expenses associated with the sub-rep's carrying out of the required duties and services of the contracts. The duties shall not be limited to those outlined above, as it relates to the sub-rep's expenditures.

(2) Compensation. Compensation to be paid to the sub-rep shall be computed and paid as follows:

A. Representative shall pay to the sub-rep an amount equal to eighty percent (80%) of the "gross commission revenue." For purposes of this Agreement, the term "gross commission revenue" shall mean all amounts received by representative during the term of this Agreement as commissions or earned

income under the contracts for sales validly made in Utah by the sub-rep, subject to this Agreement, reduced by any deductions for bad checks, returns, or other amounts refunded by representative or not actually received by the representative.

B. The amounts due to the sub-rep hereunder shall be determined on a calendar month basis and shall be paid within 20 days after the end of the relevant calendar month. The representative shall be assessed a penalty for late payment, which penalty shall be computed as being three percent (3%) of the amount due to the sub-rep and unpaid within the period. The penalty shall continue at the rate of three percent (3%) per month of the amounts due and outstanding until paid in full.

The representative shall have the responsibility for preparing specific and accurate accounting records, with respect to gross commission revenue on each and all amounts paid which accounting delineates the amount received by representative and when, and the percentage then paid to the sub-rep.

In the event that any contract principal makes any payment to the sub-rep directly, then the sub-rep shall, immediately, endorse and deliver such payment to the representative.

(3) Supervision by Representative. The sub-rep acknowledges that the representative has a valuable asset in the contracts, and has special knowledge of the contract principals, and has a prior relationship with the contract principals which must be preserved. All duties of the sub-rep will, therefore, be performed subject to certain supervision and control of the representative and in a manner reasonably directed by representative. As to those contract principals, the sub-rep will not make any sales outside of the State of Utah except with the prior written consent of the representative.

(4) Confidentiality. The sub-rep acknowledges that all information

relating to the contracts, including, without limitation, information concerning the identity of customers, pricing mailers, product information, and all other information utilized in connection with performing services pursuant to the contracts is confidential and constitutes a valuable trade secret of representative. Except for the prior consent of representative, the sub-rep will not disclose any information in any manner competitive with or adverse to the representative or the contract principals.

(5) Non-Competition. During the term of this Agreement and for a period of one year after the termination of this Agreement, regardless of the reason for termination, the sub-rep agrees that it will not compete with representative (doing business as "Denver Component Sales, Inc.") within the states of Colorado and Utah. However, said non-competition provisions hereof, however, shall apply only to competition, direct or indirect, involving the provision of sales representation services to any contract principals serviced by representative (doing business as "Denver Component Sales, Inc."). That competition shall include, but not be limited to, competition as an independent contractor, shareholder, officer, director or in any other capacity whatsoever. The sub-rep shall cause each member of its employees and sales agents to enter into a non-competition covenant, which non-competition covenant shall be consistent with the covenants set forth herein. The sub-rep will be permitted to represent principals not serviced by representative, however, within the State of Utah and elsewhere.

Representative agrees, however, that if representative loses a relationship with a contract principal through no fault of the sub-rep then the sub-rep may, at its option, continue to represent that contract principal and continue servicing that contract principal and receive the revenue directly from servicing that contract principal.

(6) Enforcement. The parties acknowledge that any breach of the provisions of Sections 4 and 5 herein could cause immediate and irreparable damage to the representative and to its contract principals. Accordingly, the sub-rep agrees that the representative may be accorded all rights and remedies provided in the law in securing performance or remedying a breach hereunder.

(7) Term. This Agreement shall continue in effect for one year, and shall automatically be renewed each year, unless 60 days prior written notice by certified mail is given by one party to the other.

(8) Miscellaneous. This Agreement is entered into in the State of Utah and shall be governed in all respects with the laws of such state.

This Agreement is binding upon and shall enure to the benefit of the respective parties and their respective successors and assigns.

This Agreement supersedes all previous contracts between the parties, whether verbal or written.

This Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof and may not be amended or modified, except in writing, subscribed to by both of such parties.

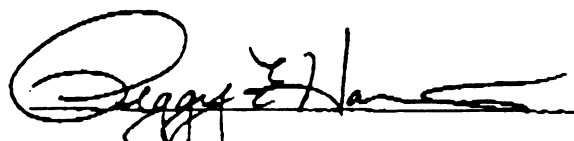
EXECUTED on the date first above-written.

COMPONENT SALES, INC.



By James L. Martin

HARRIS MARKETING, INC.



By Peggy E. Harris

Tab I

SALES REPRESENTATIVE AGREEMENT

THIS AGREEMENT is made this 1ST day of MARCH, 1989, by and between HARRIS CORPORATION, acting by and through its Semiconductor Sector, P. O. Box 883, Melbourne, FL 32901 (hereinafter "HARRIS" or "HARRIS SEMICONDUCTOR") and HARRIS MARKETING, INC., 1834 W. Parkway Blvd., Salt Lake City, Utah 84119), hereinafter "REPRESENTATIVE".

The parties agree as follows:

1. DEFINITIONS

- (a) "Products" shall mean any part, semiconductor device or system offered for sale by Harris Semiconductor in the Territory and containing a brand or trademark of "GE", "GE Solid State", "RCA", "RCA Solid State", "Harris" or "Intersil".
- (b) "Territory" shall mean the geographic area or areas described in Exhibit A hereto, or such other territory as may from time to time be agreed to in writing, signed by duly authorized representatives of Harris and Representative.
- (c) "House Accounts" shall mean those purchasers of Products of Harris Semiconductor located within the Territory, which are designated from time to time in writing by Harris as House Accounts. House Accounts designated by Harris upon execution of this Agreement are set forth in Exhibit A.
- (d) "Key Accounts" shall mean those purchasers of Harris Semiconductor Products located within the Territory, which are designated from time to time in writing by Harris as Key Accounts and listed in Exhibit A. A Key Account will be serviced by Representative and a Harris sales team with the intention of providing special emphasis on sales and support. Sales from Key Accounts are considered primary in the future growth of Harris.
- (e) "Regular Accounts" shall mean any purchaser of Harris Semiconductor Products not defined in Paragraphs (c) or (d) above and shall be serviced by the Representative.
- (f) "Distributor" shall mean those persons, firms or organizations purchasing Harris Semiconductor Products for resale to customers in the Territory (excluding House Accounts) in accordance with distributorship agreements entered into from time to time with Harris.
- (g) "Commissions" shall mean Representative's compensation for performance of its duties hereunder at the rates set forth in Exhibit E, hereto, and as amended or modified in writing, and signed by duly authorized representatives of both parties.

- (h) For the purposes of this Agreement, "bookings" is understood to mean orders from customers that have been received, acknowledged and provided scheduled dates for shipment by Harris.
- (i) For the purposes of this Agreement, "billings" is understood to mean orders that have been physically shipped to a customer and for which the customer has been invoiced.
- (j) The words "we", "us", and "our" shall mean Harris.
- (k) The words "you" and "your" shall mean the Representative.
- (l) "Customer" shall mean an authorized Harris Distributor purchasing Products for resale or a manufacturer purchasing Products for incorporation in equipment he manufactures or otherwise for his own use.

2. APPOINTMENT

You accept appointment as a sales representative of our Products in the Territory, under the terms and conditions of this Agreement. The current Products are referenced in Exhibit B.

3. ACTIVITIES

In general, you will exercise your best efforts to promote the sales of our Products through contacting, soliciting purchases by, and servicing of Customers (actual and prospective) throughout the Territory. In particular, you will at your own expense;

- (i) maintain an office and sales organization in the Territory equipped and competent to perform all activities in connection with promoting the sale of our Products;
- (ii) assist us in establishing mutually acceptable realistic annual sales objectives for the Territory, against which your performance will be measured;
- (iii) demonstrate our Products and, when requested, assist us at selected trade shows in the Territory;
- (iv) identify any new Product requirements and new Customers, and submit to us a complete Marketing Inquiry Form (Exhibit C) pertaining to Customer inquiries for new Products;
- (v) assist us in training and support of our authorized Distributors, and assist the Distributors in promoting the sale of our Products;
- (vi) periodically submit to us your forecasts and reports of your activities in the Territory in connection with performance under the agreement, in a form designated by us;

- (vii) upon receipt, immediately forward to Harris, all original orders and any papers relating thereto, or any papers requiring our signature.
- (viii) provide for attendance of appropriate personnel all sales conferences, forecasting meetings and training seminars when requested by us;
- (ix) not represent an actual or prospective competing product line of any other source, as determined in our reasonable judgment, without our written consent;
- (x) assist us in handling Customer claims and inquiries;
- (xi) assist us in credit check of and collections from Customers, when we request same;
- (xii) maintain and furnish to us an up-to-date mailing list of Customers for mailing of product literature and the like;
- (xiii) treat the substantive provisions of this Agreement and other business information disclosed to you by us as confidential information; and
- (xiv) perform other reasonable activities within the general scope of this Agreement, when requested by us.

4. QUOTATIONS AND ORDERS

You will make quotations for Products strictly on prices and terms authorized by us. Our standard terms and conditions of sale in effect at the time of this Agreement are contained in Exhibit D. You will submit or request the Customer to submit all orders for Products to us at our nearest sales office. All orders shall be in writing either through the use of a Customer signed Harris quotation form, Customer purchase order, telecopy, customer letterhead or telex. In the latter three cases you will obtain and provide us with a confirming Customer purchase order within thirty (30) days of placing the original order.

An order will be considered "booked" only when and to the extent we issue a written Order Acknowledgment to the Customer from our Melbourne office. We reserve the right to reject orders, without incurring any liability to you.

You have no authority to accept orders or to modify them in any way, or to make any commitments purporting to bind us.

5. COMMISSIONS

Your remuneration under this Agreement is limited to Commissions. In general, you will earn a Commission on (i) our Product sales into the Territory to Customers (other than Distributors or House Accounts) against orders booked during the term of this Agreement, and (ii) Product resales during the term of this Agreement by our authorized Distributor locations in the Territory. Except for research and development orders for custom

and semicustom products, the Commission will be earned at the time of the sale or resale, that is, when the delivery is billed by us or the Distributor as the case may be.

The Commission rate will be a percentage of the net amount billed F.O.B. origin, "net" meaning exclusive of federal, state and local taxes, assessments and tariffs of any kind whatsoever, transportation charges, insurance, and any incidental fees or charges, and reflecting applicable discounts, credits, claims and price allowances.

The Commission rate is a variable percentage as set forth in Exhibit E based on a comparison of sales against an annual quota set by us and acknowledged by you. Each sales period your actual cumulative sales will be compared with the corresponding cumulative quota to the nearest whole percent and your Commission for the cumulative period will be adjusted and paid accordingly.

Sales involving more than one territory will ordinarily result in split Commissions among the respective sales representatives on the following basis: 50% to design-in, and 50% to order placement. Distributor resales, however, will be paid 100% ship-to-location by Zip code, except as otherwise noted in this Agreement or exhibit thereto. In no event will the sum of the split Commissions exceed the applicable Commission for a corresponding sale involving only one territory. In the event we change the split commission basis, we shall give you 60 days advance notice.

We recognize that controversies may from time to time arise between you and other representatives with regard to Commissions due for sales to Distributors or Customers, with such sales being made in one Representative's Territory to Customers doing business or accepting delivery in another Representative's Territory. You and we specifically understand and agree that we have the right to, and may, establish reasonable rules and regulations of general application subject to change from time to time governing the sales of Products, and you agree to abide by such rules and regulations. Any disputes with respect to allocations of Commission shall be submitted to us for reasonable adjustment and determination and such determination shall be binding and final upon you and all right to further adjudication on such matters is hereby waived. In addition, we reserve the right to allocate the entire Commission to the purchasing Territory for an order of \$1,000 or less.

We may at any time designate a Customer as a "House Account", by giving you sixty (60) days written notice. You will continue to earn full Commissions on our sales to the House Account and on Distributor resales to that account during the notice period and on our sales to the House Account (but not on Distributor resales to that Account) after expiration of the notice period based on the scheduled orders (scheduled delivery not exceeding 12 months) on backlog at the expiration of the notice period.

No Commission will be earned at any time on (i) Products we export from the U.S.; (ii) license or know-how agreements; (iii) non-recurring engineering charges on custom or special Products unless otherwise agreed in writing; (iv) qualification charges on Hi-Rel or other Products; (v) design and/or development contracts except as otherwise agreed; (vi)

Products shipped at no charge or for which the Customer has been given credit, whether for replacement under warranty, lost shipments or other Customer claims; (vii) samples or tools including PG tapes or equivalent or masks.

We reserve the right at any time to reduce your Commission rate on Distributor resales involving a volume purchase agreement between us and our Customer where the purchase agreement prices to the Customer are discounted to the Distributor.

We will be entitled to set off against your account any Commission you have earned on the sale or resale or a Product subsequently returned for credit or reimbursement; shipments previously credited to you for sales by any Distributor to a subsidiary, affiliate or branch thereof or to any other Distributor; shipments erroneously credited or paid to you for any reason; or for which the Customer fails to pay after normal collection procedures. In any case, we reserve the right to withhold payment of your Commission until the Customer pays us.

You agree to submit any claim of dispute you may have related to or arising out of the payment of commissions hereunder in writing to us within thirty (30) days after you know of or have reason to know of the basis for the claim or dispute. Failure to give timely notice shall relieve us from any and all liability for such claim or dispute. The provisions of this paragraph shall survive the termination of this Agreement.

We reserve the right at any time with ninety (90) days written notice to you to change the Commission rate on specific Products or involving specific Customers, or both, in what we deem to be unusual circumstances. If we make any such change it will not apply to sales against orders booked prior to the expiration date of the notice period, but only to orders booked thereafter.

We may at any time increase or decrease the geographic Territory by giving you sixty (60) days written notice. With respect to sales into the increased portion of the Territory, you will earn a commission equal to twenty (20%) percent of your then applicable rate on sales (but not distributor resales) after the notice period based on orders booked prior to expiration of the notice period. With respect to sales into the decreased portion of the Territory, you will earn a full commission on sales and Distributor resales on sales made during the notice period and eighty (80%) percent of your then applicable rate on sales (but not on Distributor resales) after the notice period of orders booked prior to expiration of the notice period.

For Custom and Semicustom device contracts pertaining to Research and Development (including studies) or portion of such negotiated contracts awarded to us, you will earn a commission of 10% on the amount secured and entered into the order entry system. "Development" is defined as any effort involving design, layout, mask fabrication, wafer fabrication and delivery of functional samples and/or prototypes. Non-recurring engineering charges such as preliminary tooling, test program generation, qualification charges etc., if included in the basic contract, are

considered Development and are commissionable. Such Development orders are commissionable and payable at the time of order entry. Payments are to be made in accordance with Paragraph 6. Specifically excluded as Development are production tooling, "full-up" qualification units, pre-production units, first article units and production units. Special charges such as technology transfer and test equipment are not commissionable. The maximum commission payable on any Development program shall be \$50,000. Add-ons or additional Development orders arising out of orders on which a commission has already been paid will not be commissionable. With respect to cost reimbursable type contracts, the Commission Rate will be a percentage of the net amount of the original negotiated estimated cost exclusive of Facilities Capital Cost of Money (FCCOM) and Negotiated Fee plus any additional negotiated cost related to changes in scope. Additional negotiated cost related to changes in scope not including cost overruns is commissionable.

6. COMMISSION PAYMENTS

We will pay you your earned Commissions, less applicable setoffs if any, within six (6) weeks after the end of the period (our fiscal "month") in which they are earned. However, payment of Commissions earned on Distributor resales is contingent on our receipt of the Distributor's resale report for the period in question.

7. TERM OF AGREEMENT

This Agreement will commence on the date first written above and will continue in effect until terminated by either party.

Either you or we may terminate this Agreement for convenience at any time by written notice to the other.

We may terminate this Agreement in whole or in part for convenience by giving not less than thirty (30) days prior written notice. On termination for convenience you will continue to earn full commissions on our sales and Distributor resales made prior to expiration of the notice period and eighty (80%) percent of your then applicable commission rate on sales (but not Distributor resales) made after the notice period based on orders booked prior to expiration of the notice period and scheduled for shipment within six (6) months.

You may terminate this Agreement for convenience by giving not less than thirty (30) days prior written notice. On termination for your convenience you will continue to earn full Commissions on our sales (but not on Distributor resales) made prior to expiration of the notice period.

We may also terminate this Agreement for your default if (i) you fail to perform the material obligation required by this Agreement, including but not limited to obligations set forth in paragraph 3; (ii) a trustee in bankruptcy or a receiver is appointed for you or you make an assignment for the benefit of creditors; (iii) you submit to us, or any government contractor Customer or the Government any false or fraudulent reports or statements concerning Harris or its Products; (iv) you violate any law or

regulation of any state or territory including the export administration and control laws and regulations of the U.S. or any amendments thereto.

With respect to (i) above, we shall give you written notice of such failure and you shall have thirty (30) days from the date of such notice to correct such failure to our satisfaction. In the event that you do not correct such failure by the end of such period or that you acknowledge to us you are unable or unwilling to correct such failure at any time during such period, then this Agreement will terminate on the sixtieth day after said notice for your default. With respect to (ii), (iii) or (iv) above, we may terminate this Agreement for your default immediately by giving you written notice of termination. You will continue to earn Commissions on our sales (but not on the Distributor resales) made prior to expiration of the notice period under (i) or termination under (ii), (iii) or (iv) above.

Commission payments will be made in the manner provided in Article 6, above. The foregoing provisions of this Article 7 constitutes our sole liability and your exclusive remedy for termination of this agreement. Neither you nor we shall by reason of the termination or non-renewal of this Agreement be liable to the other for compensation, reimbursement or damages either on account of present or prospective profit or commissions, or on account of expenditures, investments or establishment, development or maintenance of the business or good will of Harris or yourself, or on account of any other cause or thing whatsoever, provided, however, that such termination or non-renewal shall not affect the rights or liabilities of the parties with respect to commissions earned in accordance with Article 5.

IN NO EVENT SHALL EITHER YOU OR HARRIS BE LIABLE TO THE OTHER FOR LOSS OF PROFIT OR REVENUES, LOSS OF GOOD WILL, LOSS OF BUSINESS OPPORTUNITIES OR SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE WHATSOEVER.

You agree to dispose of any materials we have furnished to you in accordance with our instructions, and to cease any and all use of our names and trademarks in conjunction with any of your activities, promptly on termination of this Agreement.

During the term of this Agreement and for a period of one (1) year after termination, we and you agree not to disclose to any third person any confidential information of the other party learned as a consequence of performance under this Agreement.

8. MISCELLANEOUS PROVISIONS

- (a) Relationship. You are an independent contractor whose sole authority under this Agreement is to solicit orders in lawful and ethical manner for acceptance by us. You are solely responsible for the control, direction and employment of your employees. You agree to hold us harmless from any claims or damages arising from your having exceeded your authority hereunder.

- (b) Compliance with Laws. You agree you will conduct your operations and activities in the performance of this Agreement in compliance with all applicable laws and regulations.
- (c) Assignment. You understand that you have no right to assign this Agreement to any other party without our prior written consent. If you make an assignment in whole or in part, including but not limited to an assignment of any sums payable by us hereunder without our consent, we may elect to disregard such assignment.
- (d) Notices. Any notice required by this Agreement must be in writing addressed to the other party at its address indicated herein or to such change of address as has been given by notice, and sent by certified or registered mail, postage prepaid or by overnight delivery. The notice will be effective on date of mailing.
- (e) Waivers. Our failure to promptly enforce any right or remedy to which we may be entitled herein will not constitute a waiver of that right or remedy.
- (f) Setoffs. We reserve the right to set off any amount you owe us against any sum we owe you.
- (g) Entire Agreement. This Agreement, Attachments and Addenda hereto constitute the entire agreement between you and us as to the subject matter herein, integrates all discussions and understandings leading up to this Agreement, and supersedes all prior agreements between you and us pertaining to that subject matter. No modification of this Agreement will be deemed effective unless made in writing signed by you and one of our authorized offices.
- (h) Governing Law. This Agreement is to be construed and enforced according to the law of the State of Florida, U.S.A.

HARRIS CORPORATION
SEMICONDUCTOR SECTOR

By: _____

Printed Name: _____

Title: _____

REPRESENTATIVE (Name of Company)
HARRIS MARKETING, INC.

By: Peggy E. Harris

Printed Name: PEGGY E. HARRIS

Title: PRESIDENT

DOMESTIC SALES REPRESENTATIVE AGREEMENT
LIST OF ATTACHMENTS

EXHIBIT A:	Territory
EXHIBIT A-2:	Military and Aerospace House Programs and House Accounts
EXHIBIT A-3:	Commercial Products House Accounts
EXHIBIT B:	Product List (noting any exclusions)
EXHIBIT C:	Marketing Inquiry Form
EXHIBIT D:	Terms and Conditions of Sales (in effect on date of this Agreement)
EXHIBIT E:	Representative Commission Payment Schedule

EXHIBIT A

HARRIS SEMICONDUCTOR
SALES REPRESENTATIVE AGREEMENT

Dated: 5-11-89

1. TERRITORY

The following Territory is hereby assigned for the sale of Products as described in this Agreement.

Wyoming 82xxx Idaho 837xx Colorado 81xxx 913xx 815xx
Montana 59xxx Utah 84xxx 812xx 914xx 816xx

2. HOUSE ACCOUNTS: MILITARY & AEROSPACE DIVISION

Any programs within the territory which are contracted to said Customers by Maryland Procurement Agency (National Security Agency) in which Harris is a directed source. Any programs within the territory which are classified by Harris Military and Aerospace Division as a strategic military program to include as a minimum any portion and/or all of each of the following programs: Trident, Minuteman, MX/Peacekeeper, MK-21, MK-21A, Pen Aids, Re-entry Vehicle Programs, and derivatives thereof. MX/Peacekeeper Re-entry Programs and derivatives, and SICBM Midgetman. Military and Aerospace Division, at its sole discretion, may from time to time add further exclusions when warranted.

U.S. Government Agencies.

Any SDI/Focal Plane program.

3. KEY ACCOUNTS

The following designate Key Accounts as provided by Article I of this Agreement:

4. REGULAR ACCOUNTS

All accounts not listed in Exhibit A, Articles 2 and 3 above.

HARRIS MARKETING, INC.

By: [Signature]
Printed Name: PEGGY E. HARRIS
Title: PRESIDENT
Date: MARCH 20, 1989

Harris Corporation

Semiconductor Sector

By: [Signature]
Printed Name: H. E. HARRIS
Title: VICE PRESIDENT
Date: 5-11-89

EXHIBIT B

PRODUCT LIST

- o All products manufactured by HARRIS SEMICONDUCTOR COMMERCIAL PRODUCTS GROUP. Reference the current HARRIS Cost and Resale schedule.

- o HARRIS SEMICONDUCTOR MILITARY AND AEROSPACE DIVISION'S Communications, strategic, tactical and Standard Data Sheet Products. Reference Data Sheet Products price list.



HARRIS
SEMICONDUCTOR

MARKETING INQUIRY

CF

ATTACH ALL SUPPORTING DOCUMENTS AND FORWARD TO PRODUCT MARKETING.

CUSTOMER INFORMATION ALWAYS FILL IN LINES 1, 2, AND 3 COMPLETELY	1	INITIATED BY	DATE INIT.	TERR. CODE	DATE DUE
	2	CUSTOMER NAME & DIV.	LOCATION		CUST. CODE
	3	CUSTOMER CONTACT	CUSTOMER SPEC. NO.	REV. NO.	REV. DATE

PRODUCT INQUIRY: A RFO NEW CUST SPECIAL B RFO REVISION OF ESTABLISHED SPECIAL C RFO ESTABLISHED SPECIAL NOT REVISED D RFO STANDARD PRODUCT E SAMPLES F _____	PRODUCT INQUIRY: CHECK TYPE OF PRODUCT INQUIRY AT LEFT AND FILL IN LINES 4, 5, 6, 7, 8 BELOW. DO NOT FILL IN LINES 9, 10.				
	4	PRODUCT CLASSIFICATION	HI REL <input type="checkbox"/>	DEVICE TYPE	PROD. MKTG. ROUTING
	5	INQUIRY IDENTIFICATION	PROGRAM	AGENCY	DEL. QTY. AND DATE
	6	SEMICONDUCTOR QUANTITY POTENTIAL	PRICE REQ'D	DOLLAR POTENTIAL	% PROB. AWARD DATE EST.
	7	COMPETITIVE SITUATION			<input type="checkbox"/> FIRM <input type="checkbox"/> ESTIMATED
	8	SAMPLES: QUANTITY REQUIRED:	ARE SAMPLES TO BE USED FOR LIFE AND/OR ENVIRONMENTAL TEST <input type="checkbox"/> YES <input type="checkbox"/> NO	TEST SAMPLES TO: GROUP A <input type="checkbox"/> OTHER <input type="checkbox"/>	

DATA REQUEST: G RELIABILITY DATA H DEVICE DATA J FAILURE ANALYSIS K Q/C DOCUMENT REVIEW L APPLICATION ASSISTANCE	DATA REQUEST: CHECK TYPE OF DATA REQUEST AT LEFT AND FILL IN LINES 9 AND 10. DO NOT FILL IN LINES 4, 5, 6, 7, AND 8.		
	9	HARRIS TYPE NUMBER	LINE SOURCE
	10	LEVEL OF REQUEST: <input type="checkbox"/> ENGINEERING JUDGEMENT <input type="checkbox"/> LIMITED ENGINEERING EFFORT <input type="checkbox"/> FORMAL PROPOSAL (ATTACH JUSTIFICATION)	

DETAILS OF REQUEST:

QUOTE NUMBER

SIGNATURE OF PERSON ANSWERING

DATE

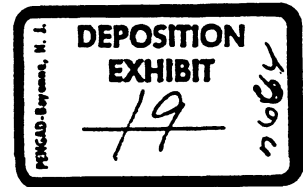
ATTACHMENT E

REPRESENTATIVE COMMISSION PAYMENT SCHEDULE

<u>Cummulative % of Plan</u>	<u>Commission Rate</u>
75%	4.000%
76	4.020
77	4.040
78	4.060
79	4.080
80	4.100
81	4.120
82	4.140
83	4.160
84	4.180
85	4.200
86	4.220
87	4.240
88	4.260
89	4.280
90	4.300
91	4.320
92	4.340
93	4.360
94	4.380
95	4.400
96	4.420
97	4.440
98	4.460
99	4.480
100	4.500
101	4.525
102	4.550
103	4.575
104	4.600
105	4.625
106	4.650
107	4.675
108	4.700
109	4.725
110	4.750
111	4.775
112	4.800
113	4.825
114	4.850
115	4.875
116	4.900
117	4.925
118	4.950
119	4.975
120% - over	5.000

Tab J

August 22, 1989



Mr. Jim Martin
President
Component Sales, Inc.
7108 S. Alcon Way
Building E
Englewood, CO 80112

Re: Notification of Termination of Sales Representative Agreement

Dear Mr. Martin:

Further to Mr. Gary Pinelli's letter of December 21, 1988 in which Harris Semiconductor issued a partial Termination for Convenience to Component Sales, Inc. ("CSI") for the territory of Colorado and Wyoming. At the same time Harris Semiconductor entered into a new sales representative agreement with Harris Marketing Inc. (formerly Harris/CSI, a partially owned subsidiary of Component Sales, Inc.). It was Harris Semiconductor's understanding that the substituted agreement and the partial termination taken together effectively ended the contractual relationship of sales representation between CSI and Harris Semiconductor. It was further our understanding from your visit to Harris Semiconductor in early 1989 that you were aware of our belief and concurred with it.

It has come to our attention that the relationship between CSI and Harris Marketing Inc. is not the relationship originally understood by Harris Semiconductor. We now believe that Harris Semiconductor-Harris Marketing Inc. agreement is not being treated as a substitute for the unterminated territory of the Harris Semiconductor-CSI agreement, but as a separate, independent relationship.

It has generally not been Harris Semiconductor's business philosophy or practice to maintain two independent sales representatives in the same geographical territory maintaining the same product line. Therefore, we would like to clarify Harris Semiconductor's position vis a vis CSI. Harris Semiconductor considers the relationship between Harris Semiconductor and CSI terminated completely and irrevocably as of March 21, 1989 for all of the territory previously covered by CSI. Harris Semiconductor has consistently treated sales into Montana, Idaho and Utah since that date in accordance with this position.

If you have any questions, please address them to Phil Koester or myself.

Very truly yours,

Howard E. Rothman
Senior Counsel

cc: P. Koester

Tab K

MICHAEL BLUE (A5258) of
RAY, QUINNEY & NEBEKER
79 South Main Street
P.O. BOX 45385
Salt Lake City, Utah 84145-0385
Tele: 801-532-1500

Attorneys for Defendant

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY

STATE OF UTAH

----ooOoo----

THE PROMARK GROUP, INC.	:	AFFIDAVIT OF LISA DUTCHIK
a Colorado corporation formerly	:	
known as COMPONENT SALES, INC.	:	
and UTAH COMPONENT SALES, INC.	:	
a UTAH corporation,	:	Case No. 900901999CV
Plaintiff,	:	
	:	Honorable Michael R. Murphy
v.	:	
HARRIS CORPORATION	:	
Defendant.	:	

----ooOoo----

LISA DUTCHIK, having been duly sworn, hereby deposes and says:

1. I am Assistant Financial Analyst for the defendant Harris Corporation.
2. The following facts are based upon my direct and personal knowledge, and upon my review of the relevant financial records of Harris Corporation.
3. Total commissions paid to Harris Marketing, Inc. for the sales made during the period February 1, 1989 through November, 1989 were \$66,177.
4. Total commissions due on sales made after November 1989, based on orders booked between August 22, 1989 and November 22, 1989 and scheduled for shipment within 12 months of receiving the order, excluding distributor

resales, totaled \$4,640.

5. Commissions specified in paragraphs 4 and 6 total \$70,817.
6. The entire amount specified in paragraph 7 was paid to Harris marketing, Inc., CSI's subcontractor for the Utah territory. True and correct copies of the commission checks are attached hereto as Exhibit "A".

DATED this 7th day of November, 1991.

Lisa M. Dutchuk

STATE OF FLORIDA)
 : ss.
COUNTY OF BREVARD)

SUBSCRIBED AND SWORN to before me this 7th day of November, 1991.

Heidi-Lynn Reeves
Notary Public

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES AUGUST 21, 1995
BONDED THRU HUCKLEBERRY & ASSOCIATES
My Commission Expires: _____

CERTIFICATE OF MAILING

I hereby certify that on the 21st day of November, 1991, a true and correct copy of this Affidavit of Lisa Dutchik was served by ~~depositing a copy of the same in the U.S. Mail, postage prepaid thereon,~~ to the following:

hand delivery

Raymond A. Hintze
HINTZE, BROWN & FAUST
6925 Union Park Center #480
Midvale, Utah 84047

Alene L. Brannan

COMMISSIONS
CALCULATION
CSICALC
07-Nov-91

SALES ACTIVITY	FISCAL YEAR PERIOD	PAYMENT PERIOD	CHECK AMOUNT
FEBRUARY 1989	FY89P8	APRIL 1989	\$50
MARCH 1989	FY89P9	MAY 1989	\$14,354
APRIL 1989	FY89P10	JUNE 1989	\$3,270
MAY 1989	FY89P11	JULY 1989	\$5,791
JUNE 1989	FY89P12	AUGUST 1989	\$6,157
JULY 1989	FY90P1	SEPTEMBER 1989	\$5,254
AUGUST 1989	FY90P2	OCTOBER 1989	\$4,943 *
SEPTEMBER 1989	FY90P3	NOVEMBER 1989	\$9,533
OCTOBER 1989	FY90P4	DECEMBER 1989	\$7,295
NOVEMBER 1989	FY90P5	JANUARY 1990	\$5,382
		FEBRUARY 1990(JUST POS)	<u>\$4,148</u>
TOTAL COMMISSIONS			<u>\$66,177</u>

NOTE: PAYMENTS LAG TWO MONTHS IN ARREARS FOR OEM SALES AND 3 MONTHS IN ARREARS
FOR DISTRIBUTOR SALES.

A STOP PAYMENT WAS PUT ON THIS CHECK. IT WAS LATER INCLUDED IN JANUARY'S CHECK.
THE JANUARY CHECK TOTAL OF \$5,382 DOES NOT INCLUDE THE OCTOBER CHECK(TOTAL JANUARY
CHECK WAS \$10,325).

COMMISSIONS
CALCULATION
CSICALC
07-Nov-91

SALES ACTIVITY	FISCAL YEAR/ PERIOD	PAYMENT PERIOD	OEM SALES BOOKED BEFORE 12/1/89 *	APPLICABLE COMMISSION RATE	COMMISSIONS ON OEM SALES
DECEMBER 1989	FY90P6	FEBRUARY 1990	17,884	5%	\$894
JANUARY 1990	FY90P7	MARCH 1990	12,780	5%	\$639
FEBRUARY 1990	FY90P8	APRIL 1990	16,958	5%	\$848
MARCH 1990	FY90P9	MAY 1990	7,289	5%	\$364
APRIL 1990	FY90P10	JUNE 1990	3,250	5%	\$163
MAY 1990	FY90P11	JULY 1990	10,506	5%	\$525
JUNE 1990	FY90P12	AUGUST 1990	15,064	5%	\$753
JULY 1990	FY91P1	SEPTEMBER 1990	1,226	4%	\$49
AUGUST 1990	FY91P2	OCTOBER 1990	5,572	4%	\$223
SEPTEMBER 1990	FY91P3	NOVEMBER 1990	4,550	4%	\$182
OCTOBER 1990	FY91P4	DECEMBER 1990	0	4%	\$0
NOVEMBER 1990	FY91P5	JANUARY 1991	0	4%	\$0
		FEBRUARY 1991 (POS)	0	4%	\$0
TOTAL COMMISSIONS					<u>\$4,640</u>

* DETERMINED THAT SHIPMENT BOOK BEFORE DECEMBER 1989 BY USING INTERNAL ORDER NUMBER.
ANY 'SM' NUMBER LESS THAN 810914 WAS BOOK PRIOR TO DECEMBER 1989.

0000-16001		HARRIS SEMICONDUCTOR		00060793	
INVOICE NUMBER	PURCHASE ORDER	INVOICE DATE	AMOUNT	DISCOUNT	NET AMOUNT
71 060289		06-02-89	3,270.00	.00	3,270.00
<p>107 A L S</p> <p>1,270.00</p> <p>1,270.00</p>					

HARRIS SEMICONDUCTOR SECTOR

INCE STATEMENT / DETACH BEFORE DEPOSITING

HARRIS

IS CORPORATION
ONDUCTOR SECTOR

THE FIRST NATIONAL BANK OF ATLANTA
ATLANTA, GEORGIA

64-1367
211

060793

DATE

CHECK NO.

NET AMOUNT

THOUSAND TWO HUNDRED SEVENTY AND 00/100 DOLLARS

HARRIS MARKETING
1817 SO. MAIN
SUITE 12
SALT LAKE CITY, UT

HARRIS CORPORATION
SEMICONDUCTOR SECTOR

45115

COUNTERSIGNED

NON-NEGOTIABLE

AUTHORIZED SIGNATURE

FY 1989 SALES REP COMMISSION
 MARIS MARKETING, INC

	P 08	P 09	P 10
	--	--	--
MARIS DEM			
BE/RCA DEM PRODUCT SALES	0	0	1932
VERSIL SALES	1121	27797	0
DE PRODUCT DISTRIBUTION RESALES	0	500	8803
	0	270688	63921
TOTAL BE PRODUCT CREDITED SALES	1121	318985	72656
COMMISSION RATE	4.3002	4.3002	4.3002
COMMISSION DUE	50	1434	3270
TOTAL COMMISSION DUE		14405	3270

P08 IS FEB DIRECT
 P09 IS MARCH DEM & FEB RESALES

FY 1989 SALES REP COMMISSION
MARQUIS MARKETING, INC.

	P 08	P 09	P 10	P 11
S GEN	0	0	1932	0
S RESALES	0	0	0	60888
PRODUCT SALES	1121	27797	0	12870
STL SALES	0	500	4803	0
NET DISTRIBUTOR RESALES	0	290688	63921	55125
GE PRODUCT CREDITED SALES	1121	318983	72656	128683
SLOW RATE	4,5001	4,5002	4,5001	4,5001
SLOW DUE	50	14354	3270	5791
COMMISSION DUE		14405	3270	5791

P08 IS FED DIRECT
P09 IS MARCH GEN & FED RESALES

7/16 9845
1/21 9845
7/16 001
5791-

7/24/89

TOTALS

6,157.00

.00

6,157.00

ANCE STATEMENT / DETACH BEFORE DEPOSITING

HARRIS SEMICONDUCTOR SECTOR

HARRIS

S CORPORATION
ONDUCTOR SECTOR

THE FIRST NATIONAL BANK OF ATLANTA 64-1327
AUGUSTA, GEORGIA 611

06491

DATE

08/11/89

CHECK NO.

00064911

NET AMOUNT

***6,157.00

THOUSAND ONE HUNDRED FIFTY SEVEN AND 00/100 DOLLARS

THE
PER
F

HARRIS MARKETING
1817 SO. MAIN SUITE 12
SALT LAKE CITY
UT
USA

HARRIS CORPORATION
SEMICONDUCTOR SECTOR

COUNTERSIGNED

NON-NEGOTIABLE

AUTHORIZED SIGNATURE

06491

36001
6,157.00

FY 1989 SALES REP COMMISSION
HARRIS MARKETING, INC

	P 08 --	P 09 --	P 10 --	P 11 --	P 12 --
IS DEM	0	0	1932	0	0
IS RESALES	0	0	0	60688	81658
PRODUCT SALES	1121	27797	0	12870	2690
RSIL SALES	0	500	4803	0	0
RODUCT DISTRIBUTOR RESALES	0	290688	65921	55125	52468
	-----	-----	-----	-----	-----
GE PRODUCT CREDITED SALES	1121	318985	72656	128683	136816
SSION RATE	4.500%	4.500%	4.500%	4.500%	4.500%
SSION DUE	50	14354	3270	5791	6157
COMMISSION DUE		14405	3270	5791	6157

P08 IS FEB DIRECT
P09 IS MARCH DEM & FEB RESALES

JANUARY RESALES WERE PAID BY SPECIAL CHECK

V-228947

36001
6,157.
-

TOTALS

5,254.00

.00

5,254.00

STATEMENT / DETACH BEFORE DEPOSITING

HARRIS SEMICONDUCTOR SECTOR

HARRIS

CORPORATION
SEMICONDUCTOR SECTOR

THE FIRST NATIONAL BANK OF ATLANTA 64-1327
AUGUSTA, GEORGIA 611

067473

DATE

04/15/89

CHECK NO.

00067473

NET AMOUNT

*****5254.00

USAND TWO HUNDRED FIFTY FOUR AND 00/100 DOLLARS

HARRIS MARKETING
1817 30. MAIN SUITE 12
SALT LAKE CITY
UT
USA

HARRIS CORPORATION
SEMICONDUCTOR SECTOR

COUNTERSIGNED

NON-NEGOTIABLE

AUTHORIZED SIGNATURE

PRIOR COMMISSION PAID

0

COMMISSION DUE

5254

06-Sep-89

FY 1990 SALES REP COMMISSION
HARRIS MARKETING
006WA

P 01

36001
\$ 5,254.-

1) PRODUCTS OEM SALES	15590
2) DISTRIBUTOR RESALES	95029
3) CIGD NET SALES	0
1) MICROWAVE OEM SALES	0
1) ADJUSTMENTS	0

1) TOTAL CREDITED SALES	110619
1) YEAR TO DATE SALES	110619

CURRENT OEM QUOTA	23846
CURRENT DISTI QUOTA	76923
CURRENT TOTAL QUOTA	100769
YEAR TO DATE QUOTA	100769

IVE PERFORMANCE	1.10
FECTIVE PERFORMANCE	1.10
	=====

SION RATE	4.750%
-----------	--------

ION DUE	5254
---------	------

MISSION PAID	0

ON DUE	5254
	=====

V-238671

INVOICE NUMBER	PURCHASE ORDER	INVOICE DATE	AMOUNT	DISCOUNT	NET AMOUNT
56 1023369		10-23-89	9,533.00	.00	9,533.00

TOTALS					
			9,533.00	.00	9,533.00

STATEMENT / DETACH BEFORE DEPOSITING

HARRIS

IS CORPORATION
ONDUCTOR SECTOR

THE FIRST NATIONAL BANK OF ATLANTA
AUGUSTA, GEORGIA 64-1327 611

076054

DATE
11/10/89

CHECK NO.
00076954

NET AMOUNT
*****9,533.00

HUNDRED FIVE HUNDRED THIRTY THREE AND 00/100 DOLLARS

HARRIS MARKETING
1817 50- MAIN SUITE 12
SALT LAKE CITY
UT
USA

HARRIS CORPORATION
SEMICONDUCTOR SECTOR

COUNTERSIGNED
NON-NEGOTIABLE
AUTHORIZED SIGNATURE

FY 1990

- (1) PRODUCT:
- (2) DISTRIB:
- (3) CICO NE
- (4) MICROWAVE
- (5) ADJUSTM.
- (6) TOTAL C
- (7) YEAR TO
- (8) CURRENT
- (9) CURRENT
- (10) CURRENT
- (11) YEAR TO
- EFFECTIVE PER
- YTD EFFECTIVE
- COMMISSION R
- COMMISSION D
- PRIOR COMMISS
- COMMISSION D

FY 1990 SALES REP COMMISSION
HARRIS MARKETING
006WA

	P 01	P 02	P 03
	--	--	--
(1) PRODUCTS OEM SALES	15590	30189	89963
(2) DISTRIBUTOR RESALES	95029	76168	87678
(3) CICO NET SALES	0	0	0
(4) MICROWAVE OEM SALES	0	0	0
(5) ADJUSTMENTS	0	0	0
	-----	-----	-----
(6) TOTAL CREDITED SALES	110619	106357	177641
(7) YEAR TO DATE SALES	110619	216976	394617
(8) CURRENT OEM QUOTA	23846	23846	29808
(9) CURRENT DISTI QUOTA	76923	76923	96154
(10) CURRENT TOTAL QUOTA	100769	100769	125962
(11) YEAR TO DATE QUOTA	100769	201538	327500
EFFECTIVE PERFORMANCE	1.10	1.06	1.41
YTD EFFECTIVE PERFORMANCE	1.10	1.08	1.20
	=====	=====	=====
COMMISSION RATE	4.750%	4.700%	5.000%
COMMISSION DUE	5254	10198	19731
PRIOR COMMISSION PAID	0	5254	10198
	-----	-----	-----
COMMISSION DUE	5254	4943	9533
	=====	=====	=====

36001
9533. -

V-257656

FY 1990 SALES REP COMMISSION
HARRIS MARKETING
006WA

36001

\$ 7/295-

	P 01	P 02	P 03	P 04
	--	--	--	--
PRODUCTS OEM SALES	15590	30189	89963	47677
DISTRIBUTOR RESALES	95029	76168	87678	98214
CICD & MEC SALES	0	0	0	0
MICROWAVE OEM SALES	0	0	0	0
ADJUSTMENTS	0	0	0	0
	-----	-----	-----	-----
TOTAL CREDITED SALES	110619	106357	177641	145891
YEAR TO DATE SALES	110619	216976	394617	540508
SHIPMENT ADJUSTMENT				297522
Y-T-D SALES (E.P.)	110619	216976	394617	838030
CURRENT OEM QUOTA	23846	23846	29808	23846
CURRENT DISTI QUOTA	76923	76923	96154	76923
CURRENT TOTAL QUOTA	100769	100769	125962	100769
YEAR TO DATE QUOTA	100769	201538	327500	428269
EFFECTIVE PERFORMANCE	1.10	1.06	1.41	1.45
YTD EFFECTIVE PERFORMANCE	1.10	1.08	1.20	1.96
	=====	=====	=====	=====
COMMISSION RATE	4.750%	4.700%	5.000%	5.000%
COMMISSION DUE	5254	10198	19731	27025
PRIOR COMMISSION PAID	0	5254	10198	19731
	-----	-----	-----	-----
COMMISSION DUE	5254	4943	9533	7295
	=====	=====	=====	=====

V-268854

1990 SALES REP COMMISSION
HARRIS MARKETING
006WA

36001
\$5382.-

	P 01	P 02	P 03	P 04	P 05
	--	--	--	--	--
PRODUCTS OEM SALES	15590	30189	89963	47677	33832
DISTRIBUTOR RESALES	95029	76168	87678	98214	73804
ICD & MEC SALES	0	0	0	0	0
MICROWAVE OEM SALES	0	0	0	0	0
ADJUSTMENTS	0	0	0	0	0
	-----	-----	-----	-----	-----
TOTAL CREDITED SALES	110619	106357	177641	145891	107636
YEAR TO DATE SALES	110619	216976	394617	540508	648144
T-D SHIPMENT ADJUSTMENT				297522	348438
T-D SALES (E.P.)	110619	216976	394617	838030	996582
RENT OEM QUOTA	23846	23846	29808	23846	23846
RENT DISTI QUOTA	76923	76923	96154	76923	76923
RENT TOTAL QUOTA	100769	100769	125962	100769	100769
YEAR TO DATE QUOTA	100769	201538	327500	428269	529038
COMMISSION PERFORMANCE	1.10	1.06	1.41	1.45	1.07
EFFECTIVE PERFORMANCE	1.10	1.08	1.20	1.96	1.88
	=====	=====	=====	=====	=====
COMMISSION RATE	4.750%	4.700%	5.000%	5.000%	5.000%
COMMISSION DUE	5254	10198	19731	27025	32407
COMMISSION PAID	0	5254	10198	19731	27025
	-----	-----	-----	-----	-----
COMMISSION DUE	5254	4943	9533	7295	5382
	=====	=====	=====	=====	=====

V-276340

1-276283

Betty

Please Stop payment
on this check.

TOTALS

6,943.00

.00

6,943.00

Thawley

NCE STATEMENT / DETACH BEFORE DEPOSITING

HARRIS SEMICONDUCTOR SECTOR

HARRIS

S CORPORATION
INDUCTOR SECTOR

THE FIRST NATIONAL BANK OF ATLANTA
AUGUSTA, GEORGIA

64-1327
811

12/21 069338

DATE

12/21/89

CHECK NO.

00649338

NET AMOUNT

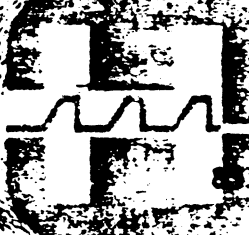
6,943.00

THOUSAND NINE HUNDRED FORTY THREE AND 00/100 DOLLARS

HE
ER

HARRIS MARKETING
1817 SO. MAIN SUITE 12
SALT LAKE CITY
UT
USA

404 841 7150
1-2-22-89
H 07-507-120



8152

HARRIS CORPORATION
SEMICONDUCTOR SECTOR

COUNTERSIGNED

NON-NEGOTIABLE

AUTHORIZED SIGNATURE

COMMISSION DUE

5254

4943

PD 6 FY 90

STOP PAYMENT Placed

called atlanta

Harris

SALES REP COMMISSION
HARRIS MARKETING
006WA

36001
\$4,943.-

	P 01	P 02
	--	--
(1) PRODUCTS DEM SALES	15590	30189
(2) DISTRIBUTOR RESALES	95029	76168
(3) CICO NET SALES	0	0
(4) MICROWAVE DEM SALES	0	0
(5) ADJUSTMENTS	0	0
	-----	-----
(6) TOTAL CREDITED SALES	110619	106357
(7) YEAR TO DATE SALES	110619	216976
(8) CURRENT DEM QUOTA	23846	23846
(9) CURRENT DISTI QUOTA	76923	76923
(10) CURRENT TOTAL QUOTA	100769	100769
(11) YEAR TO DATE QUOTA	100769	201538
FFECTIVE PERFORMANCE	1.10	1.06
TD EFFECTIVE PERFORMANCE	1.10	1.08
	=====	=====
OMMISSION RATE	4.750%	4.700%
OMMISSION DUE	5254	10198
RIOR COMMISSION PAID	0	5254
	-----	-----
OMMISSION DUE	5254	4943
	=====	=====

v-244828

PD 6 FY 90

STOP PAYMENT Placed

called atlanta

Harris

COMMISSION DUE						
	0	5254	10198	19731	27025	32407
PRIOR COMMISSION PAID	-----	-----	-----	-----	-----	-----
	5254	4943	9533	7295	5382	6170
COMMISSION DUE	-----	-----	-----	-----	-----	-----

Jan-90

✓-36001

FY 1990 SALES REP COMMISSION
HARRIS MARKETING
006WA

	P 01	P 02	P 03	P 04	P 05	P 06
	--	--	--	--	--	--
PRODUCTS DEM SALES	15590	30189	89963	47677	33832	40424
STRICTOR RESALES	95029	76168	87678	98214	73804	82962
CD & MEC SALES	0	0	0	0	0	0
CROWAVE DEM SALES	0	0	0	0	0	0
JUSTMENTS	0	0	0	0	0	0
TAL CREDITED SALES	110619	106357	177641	145891	107636	123386
AR TO DATE SALES	110619	216976	394617	540508	648144	771530
T-D SHIPMENT ADJUSTMENT				297522	348438	350980
T-D SALES (E.P.)	110619	216976	394617	838030	996582	1122510
IRRENT DEM QUOTA	23846	23846	29808	23846	23846	29808
IRRENT DISTI QUOTA	76923	76923	96154	76923	76923	96154
IRRENT TOTAL QUOTA	100769	100769	125962	100769	100769	125962
AR TO DATE QUOTA	100769	201538	327500	428269	529038	655000
EFFECTIVE PERFORMANCE	1.10	1.06	1.41	1.45	1.07	0.98
TD EFFECTIVE PERFORMANCE	1.10	1.08	1.20	1.96	1.88	1.71
COMMISSION RATE	4.750%	4.700%	5.000%	5.000%	5.000%	5.000%
COMMISSION DUE	5254	10198	19731	27025	32407	38577
RIOR COMMISSION PAID	0	5254	10198	19731	27025	32407
OMMISSION DUE	5254	4943	9533	7295	5382	6170

V-292650

P5 P6

82.962
x.05
4148

Tab L

SETTLEMENT AGREEMENT and RELEASE

THIS AGREEMENT is made and entered into this 30 day of Nov, 1987, by and between Harris Marketing, Inc. and Component Sales, Inc., also known as The ProMark Group, Inc. and Utah Component Sales Inc.

WHEREAS, on or about October 1, 1988 the parties entered into a sub-representative agreement, subsequent to which Harris Marketing, Inc. became the independent sales representative for Harris Semiconductor; and,

WHEREAS, a dispute has arisen between the parties regarding that sub-representative agreement and Harris Marketing's current position as the independent sales representative for Harris Semiconductor and the contract resulting therefrom, as a result of which no litigation has yet been filed, but which litigation has been considered; and,

WHEREAS, the parties have reached an agreement resolving the dispute between the parties and they desire to memorialize the terms of that agreement.

NOW, THEREFORE, in consideration of the amounts paid pursuant hereto, the representations made herein and other good and valuable consideration, the sufficiency and receipt whereof are hereby acknowledged, it is agreed as follows:

1. That Harris Marketing, Inc. agrees to pay to Component Sales, Inc. the sum of Fifteen Thousand Dollars (\$15,000.00) representing compensation pursuant to the sub-representative agreement by and between the parties and the subsequent contracting between Harris Marketing, Inc. and Harris Semiconductor and any alleged breach of contract due to that contracting, and including interest and attorney's fees, payable as follows:

Five Thousand Dollars (\$5,000.00) shall be payable with the delivery of the signed Settlement Agreement and Release;

Seven Thousand Five Hundred Dollars (\$7,500.00) shall be payable within one month of the date of the signing of this Settlement Agreement and Release;

Two Thousand Five Hundred Dollars (\$2,500.00) shall be payable within two months of the date of the signing of this Settlement Agreement and Release.

2. That Component Sales, Inc. hereby releases Harris Marketing, Inc. and its employees and agents from any and all liability associated with the sub-representative agreement dated October 1, 1988 by and between the parties or any predecessor agreements, and the subsequent relationship entered into between Harris Marketing, Inc. and Harris Semiconductor and related entities. Specifically, Component Sales, Inc. hereby releases Harris Marketing, Inc. from any and all restrictions, obligations and non-competition covenants within the sub-representative agreement dated October 1, 1988 by and between the parties,

3. That Component Sales, Inc. ^{and Harris Marketing} agrees that it will keep the terms, amount and fact of this Agreement completely confidential and that it will not hereafter disclose any information concerning this Agreement to anyone. Both parties agree that, although damage is difficult to determine, Component Sales, Inc. will pay Harris Marketing, Inc. the sum of Ten Thousand Dollars (\$10,000.00) if it at any time discloses the fact, amount or terms of this Agreement. Any inquiry about the outcome of this claim to Component Sales, Inc. or its attorney will be answered as follows: "The matter has been resolved and the agreement is confidential." In the event that a court of competent

jurisdiction orders Component Sales, Inc. to disclose the agreement, said disclosure shall not be considered a breach of this non-disclosure clause.

4. The parties executing this Agreement shall take further action and execute and deliver such further documents which the other party may reasonably require and find necessary in order to carry out the provisions of this Agreement.


5. This Agreement contains the entire agreement between the parties. No promise, representation, warranty or covenant not included in this Agreement has been relied upon by either party. Each party has relied upon its own examination of the full agreement and the provisions hereof and expressly contained in the Agreement itself. No modification or amendment of this Agreement shall be of any force or effect unless in writing and executed by both parties.

6. This Agreement shall be interpreted in accordance with the laws of the State of Utah.

7. This Agreement shall apply to, be binding upon and enure to the benefit of the heirs, legal representatives, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.


HARRIS MARKETING, INC.


By Peggy E. Harris, President

UTAH COMPONENT SALES, INC.

Utah COMPONENT SALES, INC.

~~By: Richard Hinte, President~~
By: James Martin, President


~~By: Richard Hinte, President~~
By: James Martin, President

jurisdiction orders Component Sales, Inc., to disclose the agreement, said disclosure shall not be considered a breach of this non-disclosure clause.

4. The parties executing this Agreement shall take further action and execute and deliver such further documents which the other party may reasonably require and find necessary in order to carry out the provisions of this Agreement.


5. This Agreement contains the entire agreement between the parties. No promise, representation, warranty or covenant not included in this Agreement has been relied upon by either party. Each party has relied upon its own examination of the full agreement and the provisions hereof and expressly contained in the Agreement itself. No modification or amendment of this Agreement shall be of any force or effect unless in writing and executed by both parties.

6. This Agreement shall be interpreted in accordance with the laws of the State of Utah.

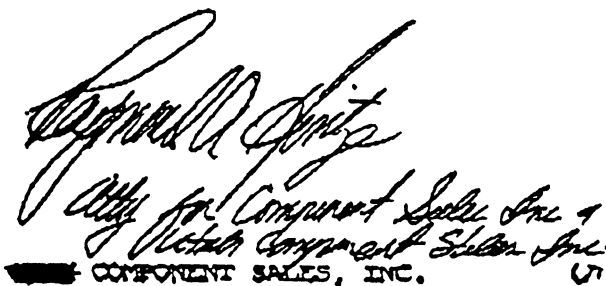
7. This Agreement shall apply to, be binding upon and enure to the benefit of the heirs, legal representatives, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

HARRIS MARKETING, INC.

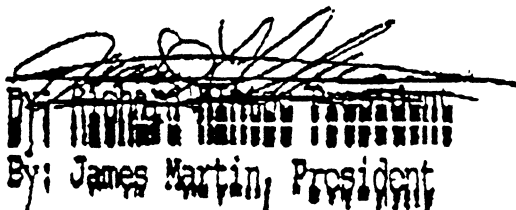


By Peggy E. Harris, President

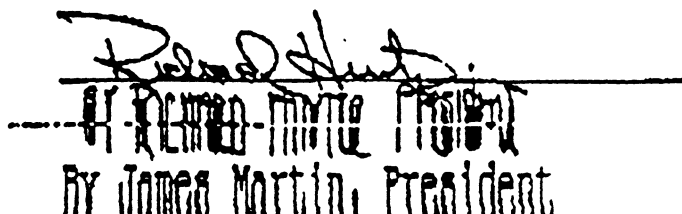


Atty for Component Sales, Inc.
Atty for Component Sales, Inc.
COMPONENT SALES, INC.

COMPONENT SALES, INC.



By: James Martin, President



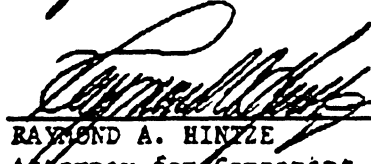
By James Martin, President

RECEIPT AND RELEASE

RAYMOND A. HINTZE, attorney for Component Sales, Inc.. and Utah Component Sales, Inc.. and on behalf of the Promark Group, hereby acknowledges receipt of payment in full, by Harris Marketing, Inc., pursuant to the Settlement Agreement and Release executed by and between the parties, on or about December 1, 1989.

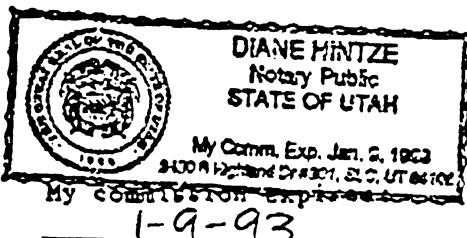
RECEIPT IS ACKNOWLEDGED of the final payment of Six Thousand Six Hundred Ninety-Six and 32/100 Dollars (\$6,696.32), which represents payment in full of the Fifteen Thousand and 00/100 Dollars (\$15,000.00) settlement, with an offset for commissions received by CSI pursuant to the earlier contractual arrangements by and between Harris Marketing, Inc.. and the Promark Group, and Utah Component Sales, Inc.

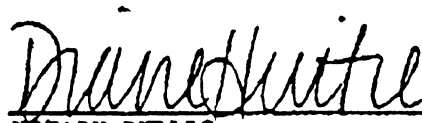
DATED THIS 17 day of February, 1990.


RAYMOND A. HINTZE
Attorney for Component Sales, Inc. and
Utah Component Sales, Inc.

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

ON THE 17th day of February, 1990, personally appeared before me, the undersigned notary, Raymond A. Hintze, the signer of the foregoing document, who duly acknowledged to me that he signed it voluntarily for its stated purpose.




NOTARY PUBLIC
Residing at Salt Lake County

Tab M

JANET HUGIE SMITH (A3001) and
MICHAEL BLUE (A5258) of
RAY, QUINNEY & NEBEKER
79 South Main Street
P.O. BOX 45385
Salt Lake City, Utah 84145-0385
Tele: 801-532-1500

Attorneys for Defendant

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY

STATE OF UTAH

----ooOoo----

THE PROMARK GROUP, INC.	:	AFFIDAVIT OF GEORGE
a Colorado corporation formerly	:	GIDZINSKI
known as COMPONENT SALES, INC.	:	
and UTAH COMPONENT SALES, INC.	:	
a UTAH corporation,	:	Case No. 900901999CV
Plaintiff,	:	
	:	Honorable Michael R. Murphy
v.	:	
HARRIS CORPORATION	:	
Defendant.	:	

----ooOoo----


STATE OF FLORIDA)
 : ss.
COUNTY OF BREVARD)

GEORGE GIDZINSKI, being duly sworn upon oath, hereby deposes and says:

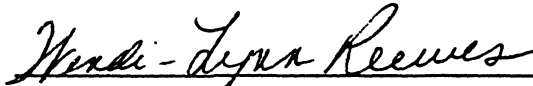
1. I am Director SPD Marketing and Sales Support for the defendant Harris Corporation and have personal knowledge of the facts contained herein.

2. Defendant Harris Corporation contributed \$7,500.00 to Harris Marketing Corporation's settlement with plaintiffs. I authorized the check to Peggy Harris and one of our secretary's placed it in the mail.

DATED this 22 day of November, 1991.


George Gidzinski

SUBSCRIBED AND SWORN to before me this 22 day of November, 1991.


Notary Public

My Commission Expires:

NOTARY PUBLIC; STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES AUGUST 21, 1993
BONDED THRU MUCKLEBERRY & ASSOCIATES

CERTIFICATE OF MAILING

I hereby certify that on the th25 day of November, 1991, a true and correct copy of this Affidavit of George Gidzinski was mailed, postage prepaid, to the following:

Raymond A. Hintze
HINTZE, BROWN & FAUST
6925 Union Park Center #480
Midvale, Utah 84047

A handwritten signature in cursive script, reading "Alfred L. Brannon", is written over a horizontal line.

Tab N

Corporon & Williams

Attorneys at Law

1100 Boston Building - #9 Exchange Place
Salt Lake City, Utah 84111
(801) 328-1162

Kellie F. Williams
Mary C. Corporon

****CERTIFIED MAIL****

August 17, 1989

JAMES L. MARTIN
President
Component Sales, Inc.
7108 South Alton Way
Building E
Englewood, Colorado 80112

Re: Termination of Sub-Representative Agreement

Dear Mr. Martin:

Pursuant to Paragraph 7 of the Sub-Representative Agreement between you and Peggy E. Harris, Harris Marketing, Inc., dated October 1, 1988, notice is hereby given of termination of the aforementioned Sub-Representative Agreement. This termination is effective as to the entirety of the agreement, commencing October 19, 1989, 60 days from the date of this notice, including an additional three days for mailing.

This formal notice is given by me, as attorney for Harris Marketing, Inc. and with full authority therefrom.

Thank you for your attention to this matter.

Sincerely,



KELLIE F. WILLIAMS
Attorney at Law

KFW:tkb

cc: Peggy Harris

Tab O

JAMES R. KRENDL
CATHERINE STRICKLIN KRENDL
MICHAEL J. SCHNEIDER
NANCY R. CROW
DAVID R. DEMURO
MARTHA J. RIDGWAY
DEBORAH S. WALDBAUM
THOMAS M. JACKSON

KRENDL & KRENDL
PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
303 EAST SEVENTEENTH AVENUE, SUITE 900
DENVER, COLORADO 80203

(303) 830-9100
TELECOPIER NO 830-1061

August 23, 1989

Kellie F. Williams
Corporon & Williams
1100 Boston Bldg.
#9 Exchange Place
Salt Lake City, Utah 84111

Re: Subrepresentation Agreement with Component Sales, Inc.

Dear Ms. Williams:

A copy of your letter of August 17 has been forwarded to us by our client, The ProMark Group, Inc., formerly known as Component Sales, Inc. I am enclosing a copy of my letter to Ms. Harris also dated August 17. We will be representing ProMark in connection with this matter, and I request that any further communications be made directly with us. Unless I am advised otherwise, I will communicate with you.

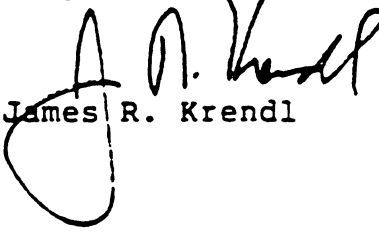
Enclosed for your reference is a copy of the agreement referred to in your letter. I refer you particularly to paragraph 7 which provides that the agreement will be renewed on an annual basis unless 60 days prior written notice of termination is given. Accordingly, the letter my client has received from you will be treated as a notice of termination as of January 1, 1990.

If Ms. Harris wishes to terminate her agreement at an earlier date, ProMark is willing to negotiate a mutual termination arrangement. However, before undertaking this, we will require verification from Ms. Harris as to her current relationship, if any, with Harris Corporation. Is she engaged, directly or indirectly, or does she have any intention of being engaged, as a representative on behalf of Harris Corporation?

Kellie F. Williams
August 23, 1989
Page 2

I look forward to hearing from you on this matter at your
earliest convenience.

Very truly yours,

A handwritten signature in dark ink, appearing to read "J. R. Krendl". The signature is fluid and cursive, with a large loop at the end of the last name. It is positioned above the printed name "James R. Krendl".

James R. Krendl

JRK/djg

cc: James Martin
Dick Hintze